

## ORIENTAL INSURANCE CO. LTD Vs SANJEEV KUMAR

**Court:** NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

**Date of Decision:** May 21, 2012

**Citation:** 2012 0 NCDRC 798 : 2012 3 CPJ 134

**Hon'ble Judges:** SURESH CHANDRA J.

**Final Decision:** Petition dismissed

### Judgement

1. THIS revision petition has been filed by Oriental Insurance Co. Ltd. The concurrent findings of both the Fora below go against the petitioner.

The main question which falls for consideration is ""whether the driving licence of the driver was or was not a valid licence? "". The facts giving rise to

this petition may be summarised as follows.

2. SANJEEV Kumar, the complainant is the registered owner of Mahindra pick-up LMV bearing No. HP-33-0223. The said vehicle was insured

with the Oriental Insurance Co. Ltd. During the currency of the Policy, the said vehicle met with an accident on 11.1.2003 at Garaudu, Near

Kalkhar. According to the complainant, Sanjeev Kumar, the said vehicle was driven by duly licensed driver. Thereafter, the dispute about the

insurance amount arose between the parties and the complaint was filed by Sanjeev Kumar, the complainant, before the District Forum.

The District Forum accepted the claim and directed the petitioner to pay to the respondent a sum of Rs. 1,27,770 together with interest @ 6%

p.a. from 8.7.2003, the date of repudiation, till the entire amount is realised as well as Rs. 2,500 as compensation towards the harassment and

costs of litigation.

3. AGGRIEVED by the District Forum 's order, an Appeal was preferred by the petitioner herein, before the State Commission. The State

Commission dismissed the appeal.

4. WE have heard the Counsel for the petitioner and have perused the written submissions made by the respondent. The learned Counsel for the

petitioner vehemently argued that the said licence was not valid and in support of his case, cited few authorities, in case reference - New India

Assurance Co. Ltd. v. Prabhu Lal, I (2008) CPJ 1 (SC)=IX (2007) SLT 841=I (2008) ACC 54 (SC)=Civil Appeal No. 5539/07 and verdict

given by this Commission in case reference -Oriental Insurance Co. Ltd. v. Sohan Singh, III (2006) CPJ 254, (RP No. 982/2006, decided on

26.4.2007). We have perused both the judgments. So far as the first judgment is concerned, the facts are, bee bit different from the facts of the

instant case. Secondly, and most importantly, the Apex Court has taken contrary view in the judgment cited by the respondent in his written

submissions. The said judgment is reported as National Insurance Co. Ltd. v. Annappa Irappa Nesaria & Ors., IV (2008) ACC 169 (SC)=AIR

2008 SC 1418. The relevant paras are reproduced below:

14. Rule 14 prescribes for filing of an application in Form 4, for a licence to drive a motor vehicle, categorizing the same in nine types of vehicles.

Clause (e) provides for transport vehicle which has been substituted by G.S.R. 221(E) with effect from 28.3.2001. Before the amendment in

2001, the entries medium goods vehicle and heavy goods vehicle existed which have been substituted by transport vehicle. As noticed

hereinbefore, Light Motor Vehicles also found place therein. 15. xxxx 16. From what has been noticed hereinbefore, it is evident that transport

vehicle has now been substituted for "medium goods vehicle " and "heavy goods vehicle ". The light motor vehicle continued, at the relevant point

of time, to cover both "light passenger carriage vehicle " and "light goods carriage vehicle " as well. 17. The amendments carried on in the Rules

having a prospective operation, the licence held by the driver of the vehicle in question cannot be said to be invalid in law.

In this authority, it was further held that LMV licence is valid for vehicles of which, gross weight is less than 7500 kg.

In the instant case, the vehicle was registered as LMV only, with gross weight of 2750 kgs and unladen weight of 1610 kgs, with seating capacity

of 2 + 1 (including driver) and as such, the "vehicle " falls under the category of LMV, as defined in Section 2(21) and para No. 11 of the

judgment. No route permit is granted for such type of vehicles. Consequently, the driving licence of the driver Sh. Om Prakash Sharma, since

deceased, is valid. The judgment relied upon by the respondent is latest in time, and has to be followed. Consequently, the revision petition stands

dismissed. Revision Petition dismissed.