

(1995) 11 NCDRC CK 0041

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

M.M.AGENCIES PVT. LTD.

APPELLANT

Vs

NEW INDIA ASSURANCE CO. LTD.

RESPONDENT

Date of Decision: Nov. 30, 1995

Citation: 1996 1 CPR 672 : 1996 2 CLT 431 : 1996 3 CPJ 200

Hon'ble Judges: D.R.Vithal Rao , Kumar Gowda J.

Final Decision: Complaint dismissed

Judgement

1. IN this complaint under Section 17 read with Section 12 of the Act, the complainant has sought compensation in a sum of Rs. 1,49,506.15 with interest thereon from the opposite party the New India Assurance Company Limited.

2. THE complainant owned a Motor Vehicle of DCM Toyota. THE maximum unladen weight of the said vehicle was 3510 kgs and registered laden weight was 5990 kgs. It was registered as medium goods vehicle under the provisions of Motor Vehicles Act, 1939, as prevalent in the year 1985.

The complainant insured the said vehicle with the opposite party on 23.11.89. The period of the policy was from 23.11.1989 to 22.11.1990. The insured amount of the policy was a sum of Rs. 1,65,000/-. The said vehicle met with an accident on 27.5.1990. The complainant made the claim with the opposite party for reimbursement of a sum of Rs. 1,49,506.15. But the opposite party repudiated the said claim by its letter dated 21.12.90 stating that the driver who drove the vehicle at the time of the accident was not having a valid driving licence to drive the said vehicle. The complainant averred that this reasoning adopted by the opposite party

in order to repudiate the claim was erroneous and illegal and sought compensation from the opposite party as referred above.

The opposite party filed its version. Admitted the fact that the said vehicle of the complainant was insured with it. It also admitted the fact that it met with an accident on 27.5.90 during the currency of the policy as averred by the complainant.

3. THE opposite party further averred that the said vehicle of the complainant was Registered as a medium goods vehicle and even on the date of the accident, the registration of which was a medium goods vehicle. THE driver who drove the said vehicle at the time of the accident, that is, on 27.5.90 was holding a driving licence to drive light motor vehicle, and so, the complainant acted in violation of the terms and conditions of the policy in entrusting the driving of the vehicle to a person who had no valid licence to drive the said vehicle.

The opposite party, nextly averred that the Insurance Company was justified in repudiating the claim as the vehicle in question was driven at the time of the accident by a person who was not having a valid driving licence.

4. THE opposite party, on the basis, of these averments, sought the complaint to be dismissed.

During enquiry, the parties filed their affidavits in evidence. The documents filed by the complainant came to be marked as Exs. C1 to C5.

We heard the learned Counsel for the parties. Perused the material on record.

5. IT is not disputed that on the date of the accident, that is on 27.5.90, the vehicle of the complainant stood registered as a "medium goods vehicle". IT is also not disputed, the driver who drove the vehicle at the time of the accident was holding a driving licence to drive a "light motor vehicle".

6. THE learned Counsel for the complainant submitted that the Motor Vehicles Act, 1988 came into force with effect from 1.7.89. So from that date the vehicle of the complainant automatically stood changed into a "light motor vehicle". So the repudiation of the claim made by the opposite party was erroneous and unjustifiable.

Under the Provisions of Section 2 Sub-clause (21) of the Motor Vehicles Act, 1988, "light motor vehicle" is defined as under : "light motor vehicle" means a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road-roller the unladen weight of any of which, does not exceed 6,000 kgs."

Admittedly, in the present case, the registration of the vehicle of the complainant on the date of the accident, that is, on 27.5.90 stood as "medium goods vehicle". This medium goods vehicle came to be changed to light motor vehicle with effect from 12.11.90, that is, subsequent to the accident.

7. THE provisions of Section 217(b) which reads as under": "any certificate of fitness or registration or licence or permit issued or granted under the repealed enactments shall continue to have effect after such commencement under the same conditions and for the same period as if this Act had not been passed.

This would go to show that the Certificate of Registration of the vehicle issued or granted under the repealed enactment would continue to have the same effect after such commencement under the same conditions and for the same period, as if this Act had not been passed.

8. THEREFORE, having regard to these facts, it is clear that this medium goods vehicle of the complainant continued to be a medium goods vehicle till it was changed into a Tight motor vehicle" on 12.11.90, and therefore, it was admittedly a medium goods vehicle on the date of the accident, that is on 27.5.90.

It is also an admitted fact that the driver who drove the vehicle at the time of the accident was holding a driving licence to drive a light motor vehicle" and he was not having a driving licence to drive a "medium goods vehicle".

Therefore, it is clear that at the time of the accident, the person who drove the vehicle was not holding an effective driving licence to drive the vehicle in question. This is clearly a violation of the terms and conditions of the policy.

9. HAVING regard to these facts, we are constrained to hold that the opposite party, that is, the Insurance Company did not commit any deficiency in service in repudiating the claim of the complainant. In the result, therefore, this complaint fails and it is dismissed. The parties are directed to bear and pay their own costs. Complaint dismissed. _____