

(2010) 03 NCDRC CK 0018

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

Jai Parkash Goyal

APPELLANT

Vs

UNITED INDIA INSURANCE
COMPANY LTD

RESPONDENT

Date of Decision: March 11, 2010

Citation: 2010 2 CPJ 183

Hon'ble Judges: K.S.Gupta , R.K.Batta J.

Final Decision: Revision dismissed.

Judgement

1. MR. R.K. Batta, Member-The tanker belonging to the petitioner/complainant, which was insured with the respondent, met with an accident on 8.2.2003. The petitioner filed claim before the Insurance Company which was repudiated vide letter dated 21.10.2003 on the ground that Satish Kumar who was driving the tanker at the time of accident had no valid driving licence inasmuch as it was found that the driving licence No. S/7264/Una/93 of Satish Kumar issued by the Licensing Authority, Una, which had been submitted by the complainant along with claim papers, was found to be fake. Thereafter the petitioner submitted another driving licence No. 12002/Z/TV/2002 issued by the Licensing Authority, Zunhebuto, Nagaland of Satish Kumar which was valid from 2.12.2002 to 1.12.2005. The complainant approached the District Forum and the District Forum accepted the contention of the petitioner that the alleged fake licence was never handed over by the driver or by the owner of the tanker to the Insurance Company and the same was manipulated by the respondent. The District Forum also accepted the contention of the petitioner that the claim form was filled by the official of the respondent and the petitioner had only signed the same and it was not within his knowledge whether there was mention of such licence in the claim form signed by him. The District Forum further held that the driver Satish Kumar had in fact a valid licence, which was issued by the Licensing Authority, Zunheboto, Nagaland. The District Forum further held that overloading of the tanker by 148.6 kgs. diesel would not be sufficient to decline the claim made by the petitioner/complainant. Accordingly, the District Forum directed

the Insurance Company to pay a sum of Rs. 2,44,112 with 9% interest from 20.8.2003 till the payment of the whole decretal amount. This order was challenged by the Insurance Company before the State Commission:

2. THE State Commission, on perusal of the material on record, came to the conclusion:

"It is well established on record that the driving licence No. S/7264/Una/93 issued by the Licensing Authority, Una (HP) which was submitted by the complainant along with claim papers, on verification was found fake and as such the Insurance Company cannot be burdened with the claim sought by the complainant as the complainant himself has violated the terms and conditions of the Insurance Policy".

3. FROM the above, it is clear that the said driving licence had been submitted by the complainant along with the claim papers. The driving licence or number thereof has to be given by the complainant so as to make claim. It is hard to believe and accept that the respondent would attach or mention the driving licence No. S/7264/Una/93 in the name of driver Satish along with the claim form filled by the complainant in order to defeat the claim of the petitioner. The said licence was found to be fake on verification.

4. BEFORE the State Commission it was urged by the Counsel for the complainant that possessing of two driving licences by a driver may be an offence under the Motor Vehicles Act, but the same is not sufficient to deny the claim of the complainant. When holding of two licences is prohibited under the law and is an offence, we fail to understand as to how and why the same cannot be pressed into service for rejecting the claim since holding of two licences at the same time would not only be in contravention of Rule 6 of the M.V. Act. 1988 but the effect of Section 6 would be that the second driving licence obtained by a person would be invalid for all practical purposes as the same was obtained in contravention of Provision 6 of the said Act.

Any other interpretation would be the violation of the provision of the said Act. Besides this, it was also found that the tanker in question was overloaded in breach of policy conditions which contributed to the accident.

5. LEARNED Counsel for the petitioner has after placing reliance on the judgments of the Apex Court in *United India Insurance Company Ltd. v. Lehu and Ors.*, II (2003) SLT 516=I (2003) ACC 611 (SC)=(2003) 3 SCC 338, and *National Insurance Company Ltd. v. Laxmi Narain Dhut*, III (2007) CPJ 13 (SC)=II (2007) ACC 28 (SC)=IV (2007) SLT 102=(2007) 3 SCC 700, argued that the owner of the vehicle is not expected to make enquiries with the RTOs whether the driving licence of the driver is valid or not and if the driving licence on the face of it looks genuine and the owner takes the test of the driver and finds that the driver is competent to drive the vehicle, then he cannot be faulted with. In this respect, reliance has been placed on para 20 of the Apex Court's judgment in *United India Insurance Company Ltd. v. Lehu and Ors.* (supra), wherein observations have been made with reference to Section 149(2)(a)(ii) of the Motor Vehicles Act. In *National Insurance Company Ltd. v. Laxmi Narain Dhut* (supra), it has been laid down in para 11 that the question as to whether the owner has taken reasonable care to find out as to whether the driving licence produced by the driver (a fake one or otherwise) does not fulfil the requirement will have to be determined in each case. In the case before us except for the bare submissions made by the Counsel for the petitioner, there is no material on record to suggest that the petitioner had taken reasonable care with reference to the licence of the driver, Satish Kumar which was found to be fake. In fact, in the claim form, the licence number of Satish Kumar, which was found to be fake, has been mentioned. It was only after the claim of the petitioner was rejected on the ground that driver Satish Kumar had a fake licence that the petitioner had produced another licence issued by the Licensing Authority, Zunhebuto, Nagaland. This goes to show that the petitioner was aware that the driver was holding two licences. First of all, this licence had been obtained by the driver Satish Kumar in violation of Section 6 of the Motor Vehicle Act. Besides this, entries in this licence itself would be sufficient to raise eyebrows inasmuch as the temporary address is shown as H.S. Road, Zunhebuto, Nagaland, whereas the permanent address is shown as Vill. Butana, Distt. Sonipat (Haryana). Unless properly explained and cogently as to why licence was obtained from Nagaland while he was permanent resident of Haryana, the veracity of the said licence itself is doubtful. A person would ordinarily apply for licence with the RTO at the place where he permanently resides.

6. IN view of the above, we are of the opinion that the petitioner is not entitled to claim put forward as the State Commission has very rightly rejected the same. We, therefore, find no merit in this case and the revision is hereby dismissed with no order as to cost. Revision dismissed.