

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.6248 OF 2009
(Arising out of S.L.P. (C) No.680 of 2008)

National Insurance Co. Ltd.

...Appellant(s)

Versus

Om Prakash Jain

...Respondent(s)

O R D E R

Leave granted.

Respondent Om Prakash Jain filed a complaint before the District Consumer Disputes Redressal Forum, Bundi, Rajasthan, [for short, "the District Forum"] claiming compensation in lieu of the damage caused to the vehicle (truck bearing registration No. RJ08/G-0023), which was purchased in the name of firm, namely, M/s. Jain Oil Industries. According to him, the truck met with an accident on 20th September, 1995 when he was going from Dei to Jaipur with wheat loaded in the truck. The complainant pleaded that driver of the truck Shri Taufiq Ahmad had valid driving licence. The appellant contested the complaint by alleging that the wheat did not belong to the complainant; that the truck was being used as public carrier for transporting the passengers and that the driver did not have valid and effective driving licence.

...2/-

On the issue of driving licence, the District Forum noted that the original licence of Shri Taufiq Ahmad was issued in Assam on 22.1.1997 and was renewed by District Transport Officer, Bundi for the period from 21.12.1992 to 19.1.1996. The District Forum further noted that as per the report of District Transport Officer, Guwahati, the driving licence possessed by Shri Taufiq Ahmad was not issued by his office and held that the original licence of the driver was fake. The District Forum then referred to the evidence produced by the parties and concluded that the insured was guilty of violating the conditions of policy, inasmuch as, it had transported goods belonging to others and allowed the use of vehicle for transportation of passengers. On that premise, the District Forum dismissed the complaint. The State Consumer Disputes Redressal Commission (for short, "the State Commission") before which the respondent filed appeal, made the following observations on the issue of validity of driving licence of Shri Taufiq Ahmad:

"There is also no dispute on the point that on verification of DL No. 19598 of belonging to the driver Tofiq Mohd. It was not found genuine one and later on District Transport Officer, Gauhati had found that it was not issued from their office, meaning thereby it was a forged licence."

Notwithstanding the aforesaid observation, the State Commission held that the insurance company cannot be absolved of its liability to compensate the owner of the vehicle, who cannot possibly be aware of the fact that the driver did not have valid driving licence.

On the issue of use of transport vehicle for carrying passengers, the State Commission observed:

"In our considered opinion, merely some passengers were sitting in the vehicle, this fact itself would not exonerate the Insurance Co. unless and until it was proved that the passengers sitting in the vehicle had attributed to the cause of accident. This aspect is missing in this case and thus on that ground also the second point of repudiation stands rejected."

Accordingly, the State Commission allowed the appeal and directed the Insurance Company (appellant herein) to pay compensation of Rs.61,255/- with interest at the rate of nine per cent from the date of filing the complaint. The National Commission dismissed the appellant's revision by a rather short order and held that the State Commission was right in observing that the insured was not in a position to verify whether the original licence issued in 1987 was fake.

We have heard learned counsel for the parties at length. In our view, the orders passed by the State Commission and National Commission are liable to be set aside because the findings recorded by them on the issue of validity of driving licence are legally untenable. In National Insurance Company Limited vs. Laxmi Narain Dhut [2007 (3) S.C.C. 700], it has been clearly laid down that the decision in the case of National Insurance Company Limited vs. Swaran Singh & Anr. [2004 (3) S.C.C. 297] has no application to the cases other than third-party risks and where originally licence was a fake, renewal thereof

cannot validate the same. In the present case, the complaint was filed for damage of the vehicle of the insured and not the third party risk. The District Forum and State Commission have concurrently held that the original licence of the driver was fake. This being the position, the District Forum was justified in dismissing the complaint and the State Commission committed an error by awarding compensation to the respondent.

Accordingly, the appeal is allowed, impugned orders passed by the State Commission as well as the National Commission are set aside and the order passed by the District Forum is restored.

No costs.

.....J.
[B.N. AGRAWAL]

.....J.
[G.S. SINGHVI]

New Delhi,
September 14, 2009.



JUDGMENT