

NATIONAL INSURANCE CO.

v.

M/S SAJJAN KUMAR AGGARWALLA

(Civil Appeal No. 1384 of 2009)

MARCH 3, 2009

**[DR. ARIJIT PASAYAT AND ASOK KUMAR
GANGULY, JJ.]**

Consumer Protection Act, 1985:

Motor accident – Insured vehicle damaged – Claim by owner – Repudiated by insurer on the ground that driver had no valid licence – HELD: There being factual contradiction with regard to driving licence, matter remitted to District Forum to verify necessary data from licensing authority.

In the instant appeal arising out of a claim petition filed by the insured for damage of his car, the question for consideration was whether the driving licence, as claimed by the insurer, was not issued in the name of the person driving the vehicle when the accident took place.

Allowing the appeal of the insurer and remitting the matter to the District Forum, the Court

HELD: The controversy lies within a very narrow compass as to the person to whom D.L. No.1149 was issued. According to the information supplied by investigator of the appellant-insurance company, the license in question was not issued to the person as claimed by the owner of the car, but to some one else. In the circumstances, the orders of the District Forum, State Commission and the National Commission are set aside and the matter is remitted to the District Forum to verify the necessary data by calling for records from the

A licensing authority. [Para 6] [933-G-H]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1384 of 2009.

B From the Judgment and Order dated 6.10.2006 of the National Consumer Disputes Redressal Commission, New Delhi R.P. No. 2874 of 2006.

S.L. Gupta, A.V. Sharma and Goodwill Indeevar for the Appellant.

C Rutvik Panda for the Respondent.

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. 1. Leave granted.

D 2. Challenge in this appeal is to the order passed by the National Consumer Dispute Redressal Commission, New Delhi (in short the 'National Commission'). Challenge before the National Commission was to the order dated 25.7.2006 passed by State Consumer Dispute Redressal Commission, Orissa at Cuttack (in short the 'State Commission'). The appeal before the State Commission was directed against the order passed by District Consumer Dispute Redressal Forum, Angul (in short the 'District Forum').

F 3. The controversy lies within a very narrow compass.

The respondent filed a complaint alleging that his claim for compensation was repudiated without any valid reason. His case was that he is owner of Maruti Car No.QR-6/D/0121. The vehicle was the subject matter of insurance with the appellant. On 23.2.2001 the vehicle met with an accident in the State of Chattisgarh and it was badly damaged. On being informed, appellant deputed a Surveyor to conduct spot survey. According to the claimant there was an agreement that the claimant would be paid Rs.1,95,000/- for the damage of the

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vehicle. But the appellant repudiated the claim on the ground that the driver who was driving the vehicle did not have an effective driving license at the time of accident. Before the District Forum a copy of the driving license bearing No.1149 dated 22.7.1999 issued by the licensing authority, Dhenkanal was filed by respondent. It was stated that he was issued with light motor vehicle license on 22.10.1998 corresponding to learning license No.2081. On 1.8.2000 he was issued with learning license and was authorized to drive heavy goods vehicle and passenger vehicle. Requisition fees has been paid and, therefore, the driver had a valid driving license. This plea was accepted by the District Forum.

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The State Commission did not accept the appeal of the appellant on the ground that in view of the records produced by the respondent, there is no basis for repudiating the claim. The National Commission by the impugned order held that in view of the finding recorded by the State Commission which had verified the driving license of the driver Sachidananda Nayak, there was no scope for any interference.

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4. It is pointed out by learned counsel for the appellant that a specific investigation was carried out by the Investigator i.e. one Mahesh Kumar Sahu who was appointed to verify the license in question. The investigator found that it was in the name of somebody else. Therefore, the District Forum as well as the State Commission and the National Commission should not have granted relief to the respondent.

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5. Learned counsel for the respondent on the other hand submitted that the details supplied by the insured clearly indicated that driver had a valid driving license.

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6. The controversy lies, as noted above, within a very narrow compass as to the person to whom D.L. No.1149 was issued. According to respondent it was issued to Sachidananda Nayak. But according to the information supplied by investigator of the appellant-company the license

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- A in question was issued to one Santosh Kumar Maharana. In view of the aforesaid background we feel it appropriate to set aside the impugned order of the District Forum, State Commission and the National Commission and remit the matter to the District Forum to verify the necessary data by calling for records from the licensing authority. The parties shall be permitted to place materials in support of their respective claim.

7. The appeal is allowed to the aforesaid extent.

R.P.

Appeal allowed.

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