

(2006) 07 NCDRC CK 0018

In the National Consumer Disputes Redressal Commission

AEROFLOT SOVIET AIRLINES

APPELLANT

Vs

UNITED INDIA INSURANCE CO. LTD.

RESPONDENT

Date of Decision : 31-07-2006

Acts Referred:

Citation : 2006 0 NCDRC 69 : 2006 2 CPC 691 : 2006 3 CPR 122 : 2006 4 CPJ 62

Hon'ble Judges : S.N.KAPOOR , B.K.TAIMNI J.

Advocate : HEMANT CHAUDHARY , VISHNU MEHRA , S.MITTAL

Judgement

1. APPELLANT was the complainant before the State -Commission, where he had filed a complaint alleging deficiency in service on the part of the Respondent, United India Insurance Company.

2. VERY briefly the facts of the case are that the Appellant owned a L.G.V. Toyota Coaster Diesel Deluxe Bus of 1988 model, which was insured with the Respondent Insurance Company for a sum of Rs. 3,50,000 for the period from 20.5.1990 to 19.5.1991. On 25.9.1990 while taking the crew to Hotel Maurya Sheraton, the bus was gheroad at the crossing of Rangpura Chowk near Mahipalpur (Delhi), where the mob after deflating the tyres and unloading the passengers set the vehicle on fire. Report was lodged with the Police as also with the Respondent Insurance Company. On 30.10.91 the Respondent informed the Appellant that the "Certificate of Fitness" of bus had expired on 22.5.1990 and sought information whether this Certificate of Fitness was renewed or otherwise? No reply was given to this letter. The Respondents closed the file as according to them, the Complainant had not obtained the Certificate of Fitness from the competent authority on the date when the vehicle was set on fire. When the claim was not getting settled, a complaint was filed and the State Commission, who after hearing both the parties dismissed the complaint on the ground that since on the date of vehicle being set on fire, there was no Certificate of Fitness of the vehicle, hence it could not have been brought on road as per provisions of Motor Vehicles Act, 1988. Aggrieved by this order, this Appeal has been filed

before us. We heard the learned Counsel for both the parties. Section 56 of the Motor Vehicles Act, 1988 deals with the Certificate of Fitness of transport vehicle which reads as follows: "56. Certificate of Fitness of transport vehicles—(1) Subject to the provisions of Sections 59 and 60, a transport vehicle shall not be deemed to be validly registered for the purposes of Section 39, unless it carries a certificate of fitness in such form containing such particulars and information as may be prescribed by the Central Government, issued by the prescribed authority, or by an authorized testing station mentioned in Sub-section (2), to the effect that the vehicle complies for the time being with all the requirements of this Act and the rules made thereunder provided that where the prescribed authority or the "authorized testing station" refuses to issue such certificate, it shall supply the owner of the vehicle" with its reasons in writing for such refusal." (Emphasis supplied)

3. THERE is no dispute that this vehicle was a Transport Vehicle as defined in Section 2(47) of the Motor Vehicles Act. For our purpose Section 39 of Motor Vehicles Act is also necessary which reads as under: "39. Necessity for Registration—No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carries a registration mark displaced in the prescribed manner: Provided that nothing in this section shall apply to a motor vehicle in possession of a dealer subject to such conditions as may be prescribed by the Central Government." (Emphasis supplied)

4. A combined reading of Sections 39 and 56 of the Motor Vehicles Act makes it abundantly clear that the vehicle could not have been driven in any public place unless the provisions of Chapter IV of the Motor Vehicles Act were observed. Section 56(1) with proviso makes it abundantly clear that, no vehicle would be deemed to be "Validly registered for the purpose of Section 39 unless it carries a Certificate of Fitness...." It is admitted position, that on the date when the vehicle was set on fire, there was no valid certificate of fitness, account of which this vehicle could not have been brought on road, which is a clear case of violation of conditions of warranty of the policy in view of which we see no ground to interfere with the well-reasoned order passed by the State Commission.

5. THIS Appeal is devoid of merit, hence dismissed.