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(2001) 10 NCDRC CK 0057

In the National Consumer Disputes Redressal Commission

HEMANT KUMAR CHHABRA APPELLANT

Vs

Oriental Insurance Co. Ltd. RESPONDENT

Date of Decision : 03-10-2001

Acts Referred:

Citation : 2002 1 CPC 274 : 2002 1 CPR 8 : 2004 1 CPJ 22

Hon'ble Judges : D.P.Wadhwa , C.L.Chaudhry , J.K.Mehra , Rajyalakshmi Rao , B.K.Taimni J.

Final Decision : Revision Petition dismissed

Judgement

1. THIS revision petition has been filed by the petitioner Shri Indrapal Chhabra after losing in both the Fora below.

2. BRIEF facts necessary to know the case are that the petitioner had a car registered for private use and was insured with the respondent Insurance Company. This car met with an accident on 10.5.1992 and was damaged. Upon preferring the claim with the respondent Company, it was repudiated by them on two grounds i.e. that vehicle at the time was being driven by a person who did not hold a valid licence, and secondly the car in question which was insured for private use, was being used at the time of accident for fare paying passenger, which is a violation of the terms of the policy and hence repudiation of his claim. Both these questions were gone into at length before the District Forum and State Commission, who after hearing both the parties dismissed the complaint and appeal respectively. It is in these circumstances the petitioner has filed the revision petition before us. It was argued by the learned Counsel for the petitioner that it is not a fact that the car was being driven against the conditions of the policy, there is no evidence that the car was being used as a Taxi. The driver who was driving the car at the time of accident had a valid licence both for LMV and HMV and breach of condition, if any, was only of technical nature and thus, praying for setting aside of the order of the State Commission and allowing the appeal. Both the lower Courts after examining the evidence have concluded that car at the time of accident was carrying fare paying passengers. Petitioner

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failed to establish that passengers were not fare paying. In this accident the main driver and two other occupants died on the spot.

In a claim filed before Motor Accident Claims Tribunal, Insurance Company was exonerated, as the vehicle was carrying 6-7 fare paying passengers in breach of the conditions of the policy.

3. WE agree with the analysis and conclusion of the State Commission that even if it is accepted that the driver did have a valid licence, but carrying fare paying passengers is a violation of terms of policy and valid enough reason for the Insurance Company to repudiate the claim. Policy is a contract based on trust, violation of which makes it invalid. No irregularity or any illegality has been brought to our notice to enable us to interfere in the reasoned orders of District Forum and State Commission. These are upheld. This revision petition is dismissed. No order on costs. Revision Petition dismissed.

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