(2010) 03 DEL CK 0214

In the Delhi High Court

Case No : FAO 74 of 2001

Master Sewa Ram APPELLANT

Vs

Vijay and Others RESPONDENT

Date of Decision : 22-03-2010

Acts Referred:
Motor Vehicles Act, 1988 — Section 146, 196

Citation : (2010) 03 DEL CK 0214

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : A.K. Srivastava, for the Appellant; Pankaj Seth, for R-3 and V.K. Tandon, for GNCTD, for the Respondent

Judgement

J.R. Midha, J.—The MLO (Hqrs.) is present in the Court and he has produced the record pertaining to three-wheeler tempo bearing No. DLG-7961. The copy of relevant pages is taken on record.

2. The MLO (Hqrs.) submits that policy No. 4713303257 was furnished by Sunman Singh at the time of transfer of said vehicle from the previous owner but the copy of the said policy is not on record.

3. The perusal of the original record of the vehicle produced by the MLO shows that the record has not been maintained in the proper manner. The copy of the policy of New India Assurance Co. Ltd. has been torn and, therefore, particulars of the said document cannot be ascertained. The file produced by the MLO is not even page numbered and it cannot be ascertained as to what documents were placed on file as there are no office notings. The record has been maintained in a very casual manner.

4. Considering that the file produced by the MLO contains the torn copy of the policy, the Secretary-cum-Commissioner (Transport) is directed to conduct an inquiry into the matter and submit report on the next date of hearing. The Secretary-cum-Commissioner (Transport) shall also ascertain as to how the

policy number was taken on record without the copy of the policy. The Secretary-cum-Commissioner (Transport) shall also investigate whether a forged policy was submitted at the time of transfer and whether the same was removed before producing the file before this Court to ensure that the racket of fake policies is not known to this Court.

5. It is the statutory requirement u/s 146 of the Motor Vehicles Act that all the vehicles on road should be compulsorily insured and the non-insurance of vehicles is punishable u/s 196 of the Motor Vehicles Act with three months imprisonment or fine or both. It is the duty of the Registration Authority to ensure that all the vehicles are properly insured and the uninsured vehicles should not be permitted to ply on road. The Road Transport Office is not maintaining the record of the vehicles whose policy has expired. It is suggested that the data of uninsured vehicles should be sent to the local police station for immediate action against the uninsured vehicles and the uninsured vehicles should be sealed after giving sufficient notice to the owner to ensure that the uninsured vehicles do not ply on the roads.

6. Considering the important question involved, Mr. Pradeep Gaur, Advocate is appointed as amicus curiae in this matter to assist this Court. The learned amicus curiae submits that the MLO should maintain proper record of insurance of all the vehicles and the record of registration number along with the Insurance particulars should be integrated, computerized and put on-line and the prosecution of the uninsured vehicles should be launched immediately on finding that the vehicle has not been insured. The learned amicus curiae further submits that the uninsured vehicles should not be permitted to ply on the road. The learned amicus curiae points out that the Road Transport Office is not maintaining any system for verification of the Insurance Policies. The learned amicus curiae also points out that only a photocopy of the Insurance policy is taken at the time of the transfer of the offending vehicle and the Road Transport , Office does not even verify whether the photocopy of the cover note/ policy tendered at the time of the transfer of the vehicle is genuine or not. It is also pointed out that there is a racket of issuance of fake cover notes/policies which are submitted at the time of the transfer of the vehicles and no care is taken to ensure that the policy is genuine. The learned amicus curiae also points out that Road Transport Office does not maintain any system to check whether the Insurance Policy is renewed after the expiry of the period mentioned therein.

7. Mr. V.K. Tandon, Advocate for Government of NCT of Delhi submits that he shall apprise the Government of NCT of Delhi of this order and shall take appropriate instructions for streamlining the system.

8. Considering the nature of issue involved, a Committee comprising of the Secretary (Transport), Government of NCT of Delhi, Joint Commissioner, Northern Range of Delhi Police, Mr. Vikas Pahwa, Additional Standing Counsel for Delhi Police, Mr. Pradeep Gaur, the learned amicus curiae, and Mr. V.K. Tantion, counsel for Government of NCT of Delhi is constituted to consider the aforesaid

suggestions of the learned amicus curiae to streamline the system. The Joint Commissioner; Northern Range of Delhi Police shall be the Convener of the Committee. The first meeting of the Committee be convened within a period of 45 days.

9. Vide order dated 25th September, 2009, this Court had given some suggestions to the Expert Committee for consideration for amendment of the law relating to the motor vehicles. The relevant portion of the said order is reproduced hereunder:

8. The Government may also examine law relating to Motor Accident Claims in South Africa which provides that all vehicles on road are insured for third party risk and the owners of the vehicles are not required to take the insurance policy for third party liability. A surcharge is added to the cost of petrol/diesel and the amount so collected is sent to Road Accident Fund which is managed by Road Accident Fund Commission.

9. The Road Accident Fund Commission manages and disburses the Road Accident Fund. The Commission also enquires into and makes recommendations regarding the system for computation and disbursement of compensation to the victims of road accident. The Commission also examines the factors responsible for the accidents such as excessive speed, influence of alcohol, vehicle fitness, overloading, poor brakes and road environmental conditions including poor maintenance of road surface and inadequate signs and markings. The Commission also makes contribution of Fuel Levy Fund for campaign/ programmes to promote road safety.

10. The South African model system shall also save the cost of manpower used by Insurance companies to issue policies. The report of Road Accident Fund Commission in South Africa is available on the website, http://transport.gov.za/ library/docs/raf/index.htm.

10. It has been brought to the notice of this Court that in Canada, the fund for payment of compensation to the victims of road accidents is collected from the following three sou rees:

(i) Insurance contribution payable by the owner of vehicle upon registration of a road vehicle for the right to operate the vehicle.

(ii) Annual Insurance contribution payable by the owner of the vehicle to retain the right to operate a road vehicle.

(iii) Annual Insurance contribution payable by a driving licence holder.

11. The relevant documents relevant to the law in Canada downloaded from the website- http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/ telecharge.php?type=3&file=/A25/A25R12A.HTM may be sent to Mr. S. Sundar, Chairman of the Expert Committee appointed by the Ministry of Road, Transport and Highways along with the copy of this order for consideration while

recommending the amendment of law.

12. List for report of the Committee on 18th May, 2010.

