**(2003) 02 NCDRC CK 0031**

**In the National Consumer Disputes Redressal Commission**

MRS. REENA RANI BEHERA APPELLANT

Vs

New India Assurance Company Ltd. RESPONDENT

**Date of Decision :** 28-02-2003

**Acts Referred:**

**Citation :** 2003 2 CPJ 502

**Hon'ble Judges :** D.M.Patnaik , Arati Mohanty , Pramodnath Das J.

**Final Decision :** Complaint allowed

## Judgement

1. THIS is an original case. The complainant had insured his Tipper bearing No. OR-02-F-6205. Period of insurance being 4.2.1997 to 3.2.1998. Insured amount was Rs. 6,50,000/-. On 5.6.1997 the said Tipper while on road met with an accident at 11 a.m. Matter was reported to the police by the Grama Rakhi. The Insurance Company being informed about the accident, Surveyor Niranjan Pal of Cuttack was deputed to survey the damage. After obtaining the consent of the said Surveyor the vehicle was shifted from the accident place to M/s. Trupti Motors, Bhubaneswar for repair. The M.V.I. also inspected the vehicle and saw the damage. The Surveyor assessed the loss at Rs. 3,11,350/-. The Insurance Company repudiated the claim on the ground that the driving licence of the driver namely, Pradip Mudalia was a fake one and thus the driver had no valid driving licence at the time of accident.

2. WE have heard Mr. R.B. Mohapatra, the learned Counsel for the complainant and Mr. M. Sinha, the learned Counsel for the O.Ps. 1 to 4. None present for the O.Ps. 5 and 6. Mr. Sinha submitted with reference to the case pleaded in the written version. With reference to para-9 of the written version he submitted the opposite parties had to ascertain from the Licensing Authority, Indore, M.P. outside State and also the Office of the R.T.A., Chandikhol. It was submitted with reference to the letter of the Branch Manager, dated 17.2.1998 that the Driving Licence No. 4168/1973 was verified at the office of the Licensing Authority, Indore, Madhya Pradesh where it was found that no such licence was at all issued by that Authority in the name of Pradip Madalia. Therefore, according to Mr.

 

Sinha issuing a renewal licence to the driver Pradip Madalia by the Licensing Authority, Chandikhol, was also invalid since the original driving licence was fake, the subsequent renewal cannot revalidate it. Mr. Sinha submitted that the repudiation by the Insurance Company was justified. We have carefully examined the contention of Mr. Sinha with reference to the rejoinder of the complainant and other documents such as seizure list, etc.

In the rejoinder by affidavit the complainant has stated that actually the original driving licence of Pradip Madalia issued by the Licensing Authority, Indore was 4196/80 which was surrendered before the R.T.O., Chandikhol and the concerned Licensing Authority, Chandikhol issued the driving licence No. 1060/95-96 CKL(B).

3. WE, for ourselves on examining the seizure list, the police find the said driving licence 1060 of 1995-96 in the name of Pradip Madalia was seized. WE have not found any material placed by Mr. Sinha that the Driving Licence No. 4168 of 1990 in the name of some other person could be a fake one. The crux of the point is whether the said Pradip Madalia had a driving licence at the time of accident and whether it was valid in point of time. Whether that licence had been obtained by the said Pradip Madalia by exercising fraud or not, is not a matter for adjudication by this Forum. On the face of it, said Madalia had a driving licence issued by Licensing Authority of Chandikhol and the competency of Licensing Authority Chandikhol to issue a licence is not challenged and that is enough for our purpose to hold that the said driver at the time of driving the Tipper had a valid licence. WE accordingly reject the contention of Mr. Sinha. So far as other point for decision is concerned, there are all admitted i.e. insurance, coverage of the vehicle, the period of validity, the Insurance Company deputing Surveyor who assessed the loss. The vouchers/cash memos of M/s. Trupti Motors relating to repair of the vehicle are also on record. We have perused them. We do not find there is anything wrong. It is also borne out on record that the Tipper was financed by Andhra Bank with interest of 17.5% vide certificate dated 20.2.2003. Accordingly, we find the case of the complainant a fit case to allow to reimburse the insured amount under the policy. In the result, we allow the case and direct the Insurance Company to pay Rs. 3,11,350/- with interest to be calculated from 18.3.1998 at the rate of 17.5% per annum with costs of Rs. 2,000/-. The amount be paid within a period of three months from the date of communication of the order. Dr. Arati Mohanty, Member-I agree. Mr. Pramodnath Das, Member-I agree. Complaint allowed.