
(2013) 07 DEL CK 0253
In the Delhi High Court
Case No : FAO No. 296 of 2002

National Insurance Co. Ltd.		APPELLANT
	Vs	
Raghunath and Others		RESPONDENT

Date of Decision : 25-07-2013

Acts Referred:

Citation : (2013) 7 AD 57

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : L.K. Tyagi, for the Appellant;

Final Decision : Allowed

Judgement

Suresh Kait, J.—Despite service of notice none appeared on behalf of the respondents. Moreover, vide order dated 25.04.2013, the Registry was directed to send the court notices to respondent Nos. 1 to 6 and Mr. Subhash Gupta, Advocate. As per office report, none is residing at the given address and their counsel also chose not to appear. Hence, this Court has no option but to proceed with the matter.

2. The present appeal is directed against the impugned award dated 16.04.2002, whereby the learned Tribunal had awarded a compensation of Rs. 6,25,000/- with interest at the rate of 9% per annum from the date of filing of the petition till realization.

3. Learned counsel for the appellant/Insurance Company has argued that the driver of the offending vehicle was not having valid driving licence despite that the learned Tribunal has refused to give recovery rights to the appellant/Insurance Company against the owner of the offending vehicle.

4. Learned counsel submitted that RW 2 has proved the carbon copy of the insurance policy for vehicle No. DHL-2444 for the period 25.09.1993 to 24.09.1994 as Ex. RW 2/1 issued in the name of Ravinder Kumar. He stated that

under the terms and conditions of the insurance policy the vehicle was to be plied by a licensed driver.

5. To strengthen argument he has relied upon a case of New India Assurance Co., Shimla Vs. Kamla and Others etc. etc., wherein the Supreme Court has observed as under:-

12. As a point of law we have no manner of doubt that a fake licence cannot get its forgery outfit stripped off merely on account of some officer renewing the same with or without knowing it to be forged. Section 15 of the Act only empowers any licensing authority to "renew a driving licence issued under the provisions of this Act with effect from the date of its expiry." No licensing authority has the power to renew a fake licence and, therefore, a renewal if at all made cannot transform a fake licence as genuine. Any counterfeit document showing that it contains a purported order of a statutory authority would ever remain counterfeit albeit the fact that other persons including some statutory authorities would have acted on the document unwittingly on the assumption that it is genuine.

13. The observation of the Division Bench of the Punjab and Haryana High Court in National Insurance Co. Ltd. vs. Sucha Singh (supra) that renewal of a document which purports to be a driving licence, will robe even a forged document with validity on account of Section 15 of the Act, propounds a very dangerous proposition. If that proposition is allowed to stand as a legal principle, it may, no doubt, thrill counterfeiters the world over as they would be encouraged to manufacture fake documents in a legion. What was originally a forgery would remain null and void for ever and it would not acquire legal validity at any time by whatever process of sanctification subsequently done on it. Forgery is antithesis to legality and law cannot afford to validate a forgery.

6. I have heard the learned counsel for the appellant/Insurance Company and perused the record.

7. RW 1 has deposed that as per the record brought by him, DL No. 1474/T.O. valid upto 02.04.1997 was not issued from their office. As per the record, DL No. 282/Shimla/78 issued by the Licensing Authority, Shimla in the name of one Himmat Kumar Sood S/o. Prem Sagar Sood; and the same had been renewed from their office against entry No. 1474 dated 26.05.1993.

8. In the cross-examination, RW 1 has admitted that the licence number and renewal number of the driving licence differ from each other. The learned Tribunal asked them to bring the record in respect of particular DL No. 1474 valid upto 02.04.1997. He stated that no new licence had been issued from their office till the year 1997 against entry No. 1474. Thus, it is established that driving licence in question is fake.

9. Moreover, owner and driver of the offending vehicle were proceeded ex parte before the learned Tribunal. As recorded above, none appeared on behalf of the

respondents before this Court despite service.

10. In view of the above discussion, the appellant/Insurance Company is given the recovery rights against the respondent Nos. 2 to 9.

11. The instant appeal is allowed in the above terms. Consequently, the Registry is directed to release the statutory amount to the appellant/Insurance Company.