(1996) 10 NCDRC CK 0077

In the National Consumer Disputes Redressal Commission

National Insurance Co. Ltd. APPELLANT

Vs

Sardar Singh RESPONDENT

Date of Decision : 07-10-1996

Acts Referred:

Citation : 1997 1 CPC 265 : 1997 1 CPJ 452

Hon'ble Judges : M.R.Agnihotri , S.Kulwant Singh , Sushil Paul J.

Final Decision : Appeals dismissed

Judgement

1. THIS order will dispose of both the above appeals as the same law point is involved. In both the cases, the person who was driving the tractor involved in the accident was holding driving licence for heavy motor vehicle and the Insurance Company had repudiated the claim on the basis of the excuse that the driver was not holding a valid driving licence for a tractor. Therefore, the insured was not entitled to claim any amount of the Insurance Company on account of the damage caused to the tractor during the accident.

2. THE facts are not in dispute. In both the cases, tractors belonging to different persons got damaged in accident and the amount of damage caused in each case was also assessed by the Surveyors. However on finding that the person driving the tractor at the time of the accident was holding only a licence for heavy motor vehicle, the Company rejected the claims. On the complaints filed by the insured-claimants in both the cases, the District Forum came to the view that the argument of the complainants, that as per the process for issuing of licence first of all light vehicle licence is issued and after that medium vehicle licence is issued and finally a heavy vehicle licence is issued, was not controverted by the opposite party-Insurance Company. THErefore, it awarded damages as per the Surveyor''s reports alongwith interest @ 18%andcostsof Rs. 500/- in each case. The learned Counsel for the appellant-Insurance Company has placed heavy reliance on the ruling of this Commission in the case of M/s. Star Auto & Engineers of Ambala City v. The United India Insurance Company of Ambala City, II (1994) CPJ 591=1994 (1) C.P.R. 333, wherein it was held by this Commission,

that a person holding a licence for driving a jeep could not be considered to be holding a valid driving licence for a tractor. This ruling is not at all helpful to the appellant as a jeep and a heavy motor vehicle are not in the same category. Moreover the learned Counsel has not been effectively able to meet the argument accepted by the District Forum in support of its decision that the driving licences are issued progressively for higher categories and therefore a person in possession of a heavy motor vehicle licence should be deemed to be qualified for driving a light motor vehicle. This finding of the District Forum also finds support from the definition of ''heavy goods vehicle'' given in clause 16 of Section 2 of the Motor Vehicles Act, 1988, which reads as follows: "heavy goods vehicle" means any goods carriage the gross vehicle weight of which, or a tractor or a road-roller the unladen weight of either of which exceeds 12,000 kilograms. It is thus clear that a person in possession of a heavy goods vehicle licence is certainly entitled to drive a tractor the weight of which exceeds 12,000 kilograms. Therefore, it cannot be argued that a person, who can drive a heavier tractor is not qualified or eligible to drive a light tractor. We are in full agreement with the finding of the District Forum that the drivers in both the cases were in possession of valid driving licence for driving tractor and it was wrong on the part of Insurance Company to have rejected the claims of the insured on this flimsy ground. As no case has been made out for interference in this matter, we do not find any reason to even issue notices to the respondents and put them to further harassment. Both the appeals are consequently dismissed. Appeals dismissed.

