

(2014) 12 P&H CK 0064
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 21428 of 2014

National Insurance Company Limited	Vs	APPELLANT
Daya Chand and Others		RESPONDENT

Date of Decision : 02-12-2014

Acts Referred:

Citation : (2016) 1 ACC 298 : (2015) ACJ 2592 : (2015) 178 PLR 448

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : G.D. Gupta, Advocate for the Appellant;

Final Decision : Dismissed

Judgement

K. Kannan, J.

1. The owner of an insured vehicle that ran into an accident made a claim for own damage of the vehicle against the insurance company. The insurance company repudiated the claim on the ground that the vehicle was being run on a temporary permit which had expired at the time of accident and therefore, there cannot be any liability. It turned out that the registration also was subsequently obtained. The Permanent Lok Adalat upheld the claim of the claimant and found that the fact that the temporary registration had not been made permanent at the time of accident cannot absolve the insurance company of any liability.

2. On a challenge to the order passed by the Permanent Lok Adalat, I had called upon the counsel appearing for the insurance company to produce the terms of the policy that spelt out particular condition of exclusion of liability in a situation where the vehicle did not have the registration renewed at the time of accident. The counsel states without producing the copy of the insurance policy that the vehicle is required to be used as per provisions of the Motor Vehicles Act and therefore, if the Act stipulated that a temporary permit would expire in 30 days and the permanent registration had not been obtained, he was doing an act which was against the provisions of the Motor Vehicles Act and therefore, that

shall also exclude the liability. I reject the contention. For any violation of terms of the policy that had provided for specific exclusion, the insurance company is bound to take upon itself the burden of proof and discharge the same by adducing appropriate evidence. If the petitioner cannot produce the copy of the policy that provides exclusion of liability, it must be only be taken that the burden has not been discharged. The statement that the user in contravention of the provisions of the Motor Vehicles Act will also provide an exclusion of liability is a fallacious argument. It can only provide for taking appropriate action by the transport authorities for any violation under the Motor Vehicles Act. There can be no automatic presumption that violation of provisions of the Motor Vehicles Act will also amount to violation of terms of the contract. The liability of the insurer is driven through contractual obligations and if the clause excluding liability is not specifically submitted and brought before Court by way of evidence, the decision taken by the Permanent Lok Adalat cannot be violated.

3. Learned counsel for the petitioner refers to me a decision of the Supreme Court in *Narinder Singh Vs. New India Assurance Company Ltd.*, that dealt with the case of a claim made before the Consumer Protection Act where a person had purchased a new vehicle and the permanent registration had expired but the accident took place subsequent to the expiry of the permanent registration. The Court found that when the vehicle was not registered, the insurance company shall not be liable. The reliance on this judgment by the counsel is unfortunate, for, he attempts to mislead the Court. The Supreme Court was considering the case of a claim made against the insurance company where the insurance policy itself had expired on 11.01.2006. The accident had taken place subsequently. The exoneration of the insurance company occurred, therefore, under completely a different situation where there was no policy of insurance at the relevant time. The fact that the temporary registration had expired was merely incidental and it did not principally go into the reckoning of the Supreme Court for exonerating the insurance company. The exoneration obtained was on a different ground. The reliance on this judgment is, therefore, untenable. The award is maintained and the writ petition is dismissed.