
(2015) 02 NCDRC CK 0099

In the National Consumer Disputes Redressal Commission

ORIENTAL INSURANCE CO LTD

APPELLANT

Vs

Raj Nandan Tiwari

RESPONDENT

Date of Decision : 26-02-2015

Acts Referred:

Citation : (2015) 02 NCDRC CK 0099

Hon'ble Judges : VINAY KUMAR J.

Final Decision : Petition dismissed

Judgement

1. MR . Abhishek Kumar, counsel for the revision petitioner / Oriental Insurance Co. Ltd. present and heard at length. No notice has so far been issued to the respondent/complainant.

2. REVISION petition has been filed against concurrent findings of fora below on the question whether licence held by the driver of the insured vehicle at the time of accident was a genuine licence or not. Learned counsel points out that both reports were forming part of fora below and are produced with the revision petition. One is report from the Regional Transport Authority, Cuttack dated 16 -03 -2007 and the other from the District Transport Officer, Patna dated 13 -04 -2007. The report of D.T.O, Patna shows that original driving license no. 8083/74 in the name of Shri Rajendra and issued by the Cuttack authority, was subsequently renewed by Patna authority on different occasions, the last being 14.10.2006. These renewals gave it validity till 13 -10 -2009. The report of RTO, Cuttack is also with reference to driving licence no. 8083/74, in the name of the same holder which, as per the authority, was not issued or renewed by it. In one part of this letter, driving licence number has been differently typed and hand corrected, which is commented upon in the impugned order.

3. THE District Forum has relied upon, interalia, the report of RTO, Patna and come to the conclusion that the license renewed by them, was valid until 13 -10 -2009. On the conflicting reports from two transport authorities, the State Commission has made very categorical observations as under: - - "The appellant -Insurance Company sought to prove that a driving licence bearing No. 8083/74

has been issued in the name of other person and not in the name of Rajendra Ojha, the driver of the Car. The Insurance Company should have to produce the records of the concerned RTO for the year 1974. They made no efforts to get produce concerned records of 1974. Even presuming, there was some confusion whether the number of the Licence was 8083/74 or 8380/74 or 8082/83; still the records of 1974 were required to be produced. The driver and the owner of the vehicle have not been examined. The application form with relevant documents praying for grant of Driving Licence has also not been produced. On the other hand, the Driving Licence of the said driver has been renewed after proper test by the D.T.O. Patna for the period 28 -09 -1996 to 27 -09 -1999, 28 -11 -1999 to 27 -11 -2002, 14 -10 -2006 to 13 -10 -2009. At the time of accident of the vehicle, the driver had genuine and valid Driving Licence renewed and issued by the D.T.O Patna, which is admitted fact.

4. LEARNED counsel for the petitioner argues that having accepted the report of one authority, State Commission could not have rejected the report of the other, merely on the ground that it was not proved before the fora below. I am unable to accept the logic of this argument. If one of the two authorities is certifying the licence as valid on the date of loss, the benefit of doubt should go in favor of the consumer. It will be open to the petitioner /Insurance Company to adduce evidence in support of their contention that what was renewed was not a genuine licence.

5. LEARNED counsel also seeks to rely on the judgment of Hon''ble Supreme Court in the case of United India Insurance Co. Ltd. Vs. Davinder Singh where the Hon''ble Apex court held as under: - - "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."

6. IT is clear that this decision is not directly applicable to the facts of the present revision petition. The question before us is not whether renewal can impart legality to a fake licence. The question is whether the licence renewed was fake, to start with.

7. IN view of the above, I find no ground to interfere with the view taken by State Commission in the impugned order. Revision Petition No. 444 of 2015 is consequently dismissed for want of merit.