(1994) 03 NCDRC CK 0036

In the National Consumer Disputes Redressal Commission

ORIENTAL INSURANCE CO.LTD — APPELLANT

Vs

STEEL CITY CONSUMERS ASSOCIATION — RESPONDENT

Date of Decision : 22-03-1994

Acts Referred:

Citation : 1994 2 CPJ 2

Hon'ble Judges : A.Venkatarami Reddy , C.V.Subba Reddy J.

Final Decision : Appeal allowed

Judgement

1. AGGRIEVED by the order of the District Forum, whereby it directed the Insurance Company to pay a sum of Rs. 18,000/- to the defacto complainant towards damages with interest, the above appeal is preferred by the Insurance Company. Certain facts are not in dispute. That Smt. P. Padma was the owner of the vehicle and she had Insurance Policy in her name. The complainant claimed that she purchased that Vehicle from Smt. P. Padma in June 1989, but actually in August 1989 according to the complainant, she paid premium for the vehicle to the Insurance Company, but the premium paid was in the name of Smt. P. Padma and not in the name of the complainant. The registration of the vehicle was actually transferred on 15-11-1989. There was no intimation to the Insurance Company even after June 1989 that there was a transfer of the vehicle in the name of the complainant. While so, the vehicle met with an accident on March 1990. Since the vehicle was damaged in the accident, the complainant claimed the amount under policy for the loss suffered in the accident from the Insurance Company. As the Insurance Company did not pay the amount, she filed a complaint for a sum of Rs. 18,000/-.

2. IN the counter filed, the INsurance Company took a plea that the car was transferred in the name of the complainant with effect from 15-11-1989, and the policy continued in the name of Smt. P. Padma, the previous owner of the vehicle and not transferred in the name of the complainant as there was no intimation to the INsurance Company, that the ownership of the vehicle was transferred, and that no request was made for transfer of the policy in the name of the

complainant. Since there is no contract between the INsurance Company and the Complainant, the INsurance Company is not liable. The District Forum held that even in the absence of a contract the INsurance Company being a Public undertaking must decide the claims with fairness and should not harp on highly technical stands like late intimation of actual transfer of assets. Even according to the District Forum, none of the parties intimated the INsurance Company about the transfer of registration and no request was made to transfer the policy in the name of the complainant. Thus for all the purposes, the policy was in the name of the previous owner Smt. P. Padma. But, although there is no transfer of the policy, the District Forum came to the conclusion that the INsurance Company is liable to pay the damages, sustained by the complainant in the accident. Aggrieved by the said order, this appeal is preferred by the INsurance Company. Reliance is placed on New INdia Assurance Co. Ltd., v. M/s. Complete INsulations (P) Ltd. II (1993) CPJ 163 (NC)=1993 (1) CPR 101 (NC), IN the said decision, it was held by the National Commission that "While reading Section 103-A of the Old Act and 157 of the new Act, both provisions being contained in the Policies relating to third party risks, we will have to keep in mind that these provisions apply only in respect of third party risks. The above provisions of the Motor Vehicles Act relating to INsurance policy not apply to the Policy covering the risks of damage to vehicle or person of the INsured. Therefore, it. cannot be held that the said sections have reference to a composite policy covering the risk to property, person and third party risks". Thus it is clear that so far as the damages to the vehicle are concerned as there is no novation of the contract with the INsurance, in favour of the complainant the complainant is not entitled to claim any amount of compensation under the INsurance Policy. The INsurance Policy being in the nature of contract between the parties, in the absence of any agreement by the INsurance Company, the complainant is not entitled to claim any compensation. The learned Counsel for the respondent, relied on Section 157 of the Motor Vehicles Act, 1988. This section corresponds to Section 103 of Motor Vehicles Act, 1939. The Section reads as follows : "157. Transfer of Certificate of INsurance : - (1) Where a person in whose favour the certificate of insurance has been issued in accordance with the provisions of this chapter transfers to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer."

This Section occurs in Chapter 11, that is INsurance of Vehicles Act and third party risks. It is, therefore, clear that the aforesaid Section applies to only in the case of third party risks, and to no loss caused to their vehicle on account of accident. We are of the view that in the absence of transfer of the INsurance Policy in favour of the complainant, she is not entitled to compensation. The appeal is allowed. The order of the District Forum is set aside. There shall be no order as to costs. Appeal allowed.