(2014) 07 NCDRC CK 0069

In the National Consumer Disputes Redressal Commission

Puneet Phutela APPELLANT

Vs

ORIENTAL INSURANCE COMPANY LTD. RESPONDENT

Date of Decision : 08-07-2014

Acts Referred:

Citation : 2014 0 NCDRC 428 : 2014 3 CPJ 379

Hon'ble Judges : J.M.MALIK , S.M.Kantikar J.

Advocate : V.B.Aggarwal

Judgement

1. MR . Puneet Phutela, the complainant, purchased a Truck, which met with an accident, on 14.06.2004, during the subsistence of the insurance policy. The Surveyor assessed the loss of the Truck in the sum of Rs.1,39,587/ -, for repairs. The Oriental Insurance Co. Ltd., the OP, repudiated the claim of the complainant, on the ground that the driving licence of the driver was found to be invalid.

2. THE District Forum allowed the complaint and directed the Insurance Co., OP, to pay a sum of Rs.1,99,591/ - as claimed by the complainant along with interest @ 9% p.a, from the date of lodging of the claim, till its payment. It also imposed litigation expenses in the sum of Rs.5,000/ - and awarded damages in the sum of Rs.10,000/ -. The State Commission, however, accepted the appeal filed by the insurance company and dismissed the complaint.

3. WE have heard the counsel for the petitioner at the time of admission of this case. The case of the insurance company is that the driving licence was issued in favour of the driver from Licencing Authority, Ambala for Motor Car. The endorsement of HTV mentioned on the alleged driving licence was found to be fake. The Licencing Authority, Barielly, confirmed this fact.

4. AT the first occasion, the counsel for the petitioner submitted that the endorsement made by RTO, Barielly is correct. We called for RTO ''s report and even sent Bailable Warrants against him. However, he did not turn up. Subsequently, it came to our notice that some reports are already on the record. The Affidavit of Sh. Rajeev Kumar Saxena, Surveyor, is on the record. Para 3 of

his affidavit is relevant and it is reproduced here, as under : - ''''3. That the deponent visited the office of RTO/Licensing Authority, Bareilly, and applied for the verification of said driving license No.821/74 -75 with a written application. After permission, I physically verified the official record maintained by the office with the concerned clerk. The office of the RTO/ Licensing Authority, Bareilly refused to give its written report about the particulars of driving license and its effectiveness and validity since there was no entry about any such license or endorsement. As per my physical inspection and verification of the concerned record, no such endorsement for HTV on any license in the name of Sh. Roshan Lal, S/o. Sh. Amar Nath was issued by the said office and hence the alleged endorsement is fake ''''.

Thereafter, there is report from the Manager, Oriental Bank of India, dated 08.07.2005. The evidence already produced on record is enough. It clearly goes to show that the license of the petitioner is a ''bogus '' one. It was his duty to get another copy of the record, if any, and place the affidavit of the person concerned who had issued it.

5. THE driving licence goes to show that he was not permitted to drive HTV. His license was not valid for truck. His license was prepared at Ambala and renewed at Barielly, the proper evidence should come on the record. The affidavit of Surveyor, Rajeev Kumar Saxena, remains unrebutted on record.

6. WE have no reason to disbelieve the same. The order passed by the State Commission is well reasoned. It has also taken support from the authority of the Hon ''ble Supreme Court in New India Assurance Co. Ltd. Vs. Suresh Chandra Aggarwal, 2009 (3) CPC 12 (SC). The revision petition is without merit and, therefore, the same is hereby dismissed. No order as to costs.

