
(2009) 11 SHI CK 0004
In the High Court Of Himachal Pradesh
Case No : F.A.O. No. 113 of 2006

Sansar Bus

APPELLANT

Vs

National Insurance Co. Ltd. and Others

RESPONDENT

Date of Decision : 30-11-2009

Acts Referred:

Citation : (2011) 3 TAC 144

Hon'ble Judges : Dev Darshan Sud, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Dev Darshan Sud, J.—This appeal has been instituted by the owner of the bus against the award made by the learned first Motor Accident Claims Tribunal)/ Kangra at Dharamshala, awarding a sum of Rs. 14,294/- for injury sustained by Petitioner Puran Chand while he was travelling by Bus No. HPK 2550.

2. The Insurance Company contested the claim on the ground that the driving licence possessed by the driver was fake.

3. On settled issue No. 3, dealing with this aspect, the learned Motor Accident Claims Tribunal considered the evidence of RW-2 Vaneet Kumar, Motor Licensing Clerk from the office of Sub-Divisional Magistrate, Dharamshala, who stated that the licence was renewed from 28th April, 2001 to 27th April, "2004. The learned Tribunal also notices; the evidence of RW-4 Uppal Kumar, who states that the licence mark "X" on the record has not been issued by the office of the District Transport Officer, Kamrup (Assam) from where it has purportedly been obtained and that the report Ext. RW-4/A is correct according to the original i.e. communication which has been addressed by the Surveyor Shri I.S. Malik of the National Insurance Company Limited to the District Transport Officer, Kamrup (Assam) requesting for information of driving licence No. A/15756, issued on 25th September, 1986. It has been returned with the remarks that this licence was not issued from Transport Authority, Kamrup (Assam). So far as the

judgment of the District Consumer Disputes Redressal Forum, Ext.RW-1/A, is concerned, it only states that there is no evidence on the record to establish that the licence is fake and that is the basis for holding that the driver was possessed of a valid driving licence. The Forum holds that no person from the opposite party appeared in the witness box to say so. It is only the report which has been placed on the record which was not admitted in evidence.

4. Looking to the petty amount which was awarded, I thought it fit to reject the appeal outright. However, since the appeal has been admitted, I must consider the submissions made on behalf of the Appellant.

5. Learned Counsel appearing for the Appellant places reliance on the judgment of the Supreme Court in Lal Chand Vs. Oriental Insurance Co. Ltd., holding that where the owner had seen and examined the driving licence produced by the driver and also taken the driving test and later on it was discovered that he did not possess a driving licence, it was not open to the Insurance Company to plead breach of the conditions of the Insurance Policy. This was also the principle laid down by the Court in United India Insurance Company Ltd. Vs. Leheru and Others, and National Insurance Co. Ltd. Vs. Geeta Bhat and Others,

6. I do not find from the evidence on record that any exercise has been undertaken by the owner to establish these facts on record. There is, thus, no merit in this appeal which is dismissed with costs throughout.