(2012) 09 NCDRC CK 0043

In the National Consumer Disputes Redressal Commission

SNEH LATA — APPELLANT

Vs

National Insurance Co. Ltd , MARUTI UDYOG LTD — RESPONDENT

Date of Decision : 21-09-2012

Acts Referred:

Citation : 2012 0 NCDRC 565 : 2012 4 CPJ 272

Hon'ble Judges : J.M.Malik , Vinay Kumar J.

Advocate : Gautam Godara

Judgement

1. ON 29.01.2004, Smt. Sneh Lata, the complainant purchased a Maruti Omni Van, ''8-Seater '', for a sum of Rs.2,17,208/- and accessories worth Rs.40,000/-. It was insured with National Insurance Company Ltd., for the period from 29.01.2004 to 28.01.2005.

2. ON 02.10.2004, the said vehicle met with an accident. Intimation was given to the Police Station Kotwali Dehat, Saharanpur regarding the accident. The Surveyor assessed the loss at Rs.2,15,815/- out of which the complainant was paid Rs.70,000/-. The Insurance Company failed to pay the rest of the amount, so a complaint was filed with the District Forum, with the prayer that the respondents be directed to pay a sum of Rs.1,45,815/- along with interest @ 18% p.a. The respondents listed the following reasons for repudiation of the claim of the petitioner/complainant. Firstly, the vehicle was being used for commercial purpose on hire, secondly, LPG Gas Kit was found fitted in the vehicle and lastly, the driving licence of the driver was not a valid one.

The District Forum allowed the complaint but the State Commission dismissed the same.

We have heard the counsel for the petitioner at the time of the admission of this revision petition. He argued that the driving licence of Satish Kumar is valid. He contended that there is no evidence that the vehicle was used for commercial purpose. The learned counsel further submitted that when the Surveyor inspected the vehicle, there was no gas cylinder. The above said arguments lack conviction. The report of B.B. Chawla, Surveyor and Loss Assessor, goes to reveal that the licence produced by Satish Kumar was not in his name and the same was in the name of Sarwan Kumar, Son of Davender Kumar. The learned counsel for the petitioner did not refer to this finding given by the State Commission.

3. THE State Commission has observed that as per the report of Royal Associates, the vehicle in question was hired by seven students of Gangoh Engineering College for one day trip to Mussorie and the vehicle was running on LPG instead of petrol, whereas, it was registered as a petrol vehicle. THE learned counsel for the petitioner did not assail this finding. This report further goes to show that the vehicle was driven for commercial purpose. It is clear that these facts go to reveal that the vehicle was used by the complainant for commercial purpose, LPG gas was fitted and driver did not have the valid licence, against the terms and conditions of the insurance policy as well as in violation of the Motor Vehicles Act. The learned State Commission has correctly placed reliance on the following authorities of the Apex court. (1) United India Insurance Co. Ltd. Vs. Harchand Rai Chandan Lal, (2004) 8 SCC 644, (2) Surajmal Ram Niwas Oil Mills (P) Ltd., Vs. United India Insurance Company and Anr., IV (2010) CPJ 38 (SC). The above said flaws have pushed the case of the petitioner/ complainant to the edge of a cliff. The revision petition collapses like a house of cards, and is, therefore, dismissed.

