

(2012) 05 DEL CK 0624
In the Delhi High Court
Case No : MAC. APP. No. 973 of 2011

Vijay Kumar

APPELLANT

Vs

New India Assurance Co. Ltd. and Others

RESPONDENT

Date of Decision : 07-05-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 149(2), 66(3)

Citation : (2012) 05 DEL CK 0624

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : K.R. Pamei, for the Appellant; Niraj Singh, Advocate for the Respondent No. 1, for the Respondent

Final Decision : Allowed

Judgement

G.P. Mittal, J.—The Appellant impugns a judgment dated 28.04.2011 whereby while granting a compensation of Rs. 2,40,183/- in favour of the Respondent No. 2, the Appellant Vijay Kumar was made liable to reimburse the compensation to the Respondent No. 1 New India Assurance Co. Ltd. on the ground that there was breach of the policy condition. The Insurance Company's case was that the Appellant did not possess any valid permit as required u/s 66(3)(i) of the Motor Vehicles Act resulting into breach of the terms of the policy u/s 149(2)(a)(ii) of the Act. A photocopy of the registration certificate in respect of the vehicle No. DL-1LE-1547 has been placed on record which shows the Unladen Weight of the vehicle as 1625 kg and the Laden Weight as 2750 kg. As per Section 66(3)(i), there is no requirement to obtain a permit in respect of the goods vehicle where the gross vehicle weight does not weigh 3000 kg. The copy of the registration certificate was available on the Trial Court record which escaped the attention of the Claims Tribunal.

2. Since there is no requirement to obtain a permit, there is no question of breach of the terms of the policy. The impugned order granting recovery rights against the Appellant is accordingly set aside.

3. The Appeal is allowed in above terms.

4. The statutory amount of Rs. 25,000/- shall be refunded to the Appellant. A copy of the order be given Dasti to the counsel for the Appellant.