

CHHATTISGARH STATE
CONSUMER DISPUTES REDRESSAL COMMISSION,
PANDRI, RAIPUR (C.G.)

Appeal No.FA/12/551
Instituted on : 04.10.2012

National Insurance Company Limited,
Through : Divisional Manager, Divisional Office,
Mobin Mahal, G.E.Road,
Raipur (C.G.)

..... **Appellant.**

Vs

Deepak Kumar Das,
S/o Late Shri Narendra Kumar Das,
R/o : Quarter No.27/226, New Shanti Nagar,
Raipur (C.G.)

.... **Respondent.**

PRESENT :

HON'BLE SHRI JUSTICE S.C. VYAS, PRESIDENT
HON'BLE SMT. VEENA MISRA, MEMBER
HON'BLE SHRI V.K. PATIL, MEMBER

COUNSEL FOR THE PARTIES :

Shri C.S. Pandey, for appellant.
Shri H.N. Das, for respondent.

ORDER (ORAL)

DATED : 15/02/2013

PER :- HON'BLE SHRI JUSTICE S.C. VYAS, PRESIDENT

This appeal is directed against order dated 29.08.2012 of District Consumer Disputes Redressal Forum, Raipur (C.G.) (hereinafter called "District Forum" for short), in Complaint Case No.104/2011, directing the appellant/Insurance Company to pay Rs.61,953/- to the

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respondent/complainant along with interest @ 6% p.a. w.e.f. 06.10.2010 till date of payment and also to pay Rs.10,000/- as compensation for mental agony and Rs.2,000/- as cost of litigation on account of damages to the insured vehicle in an accident.

2. Undisputedly, vehicle no.C.G.04/H.A.5894 was of the registered ownership of the respondent/complainant and was insured by the appellant/Insurance Company. The said vehicle suffered road accident on 11.07.2010. Claim was preferred before the Insurance Company. A Surveyor was appointed by the Insurance Company. The claim of the respondent/complainant was repudiated by the Insurance Company on the ground that driver Shri Rakesh Kumar Das was not having valid and effective driving licence to drive the vehicle in question.

3. In reply to the complaint filed by the respondent/complainant before the District Forum, the same defence was taken by the Insurance Company and it was averred in the written version that the driver was having valid licence to drive Motorcycle plus Heavy Goods Vehicle plus HPMV w.e.f. 09.02.1984 and there was no endorsement in it permitting him to drive LMV. The questioned vehicle was a Tavera car, which was LMV.

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4. Learned District Forum, did not agree with the defence taken by the Insurance Company and directed it to pay compensation to the respondent/complainant by the impugned order.

5. We have heard arguments advanced by both parties and perused the record of the District Forum.

6. Before us, report of Surveyor, Shri G.C. Agrawal, has been filed. In that report also, it has been mentioned that driver Shri Rakesh Kumar Das was having a licence permitting him to drive Motorcycle with Gear, HGV & HPMV only. Before the District Forum also the driving licence, which was filed by the parties, having permission to the aforesaid driver to drive to drive such vehicle.

7. Now, the question is whether a person who is having authority to drive HGV can also drive LMV without any specific endorsement in the driving licence.

8. This question was raised before Hon'ble National Commission in the case of **Ankit Goyal Vs. New India Assurance Company Ltd. & Anr.**, as reported in **I (2012) CPJ 511 (NC)**, whereby Hon'ble National Commission in paragraph No.7 has described as to what are the provisions of Section 10 of the Motor Vehicles Act, 1988 and in

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respect of the Form and contents of licences to drive and particularly sub clause (2) of the Section, which clarifies as to how many classes of vehicles are there for which a separate licence is required. In paragraph No.8, it has been held by Hon'ble National Commission that from the provisions of Section 10 of the Motor Vehicles Act, 1988 there is a distinction between light motor vehicle and transport vehicle. A transport vehicle may be a LMV but to drive it, a distinct licence is required to be obtained.

9. Thus, it is clear that law laid down by Hon'ble National Commission and as per provisions of Section 10 of the Motor Vehicles Act, 1988 separate licence is always required to be obtained to drive different categories of the vehicles. In the facts of the present case, the driver of the questioned vehicle was not having any endorsement in his licence permitting him to drive LMV like vehicle Tavera and in the absence of such endorsement, he cannot be said to be a person having valid and effective driving licence to drive the vehicle in question.

10. Learned District Forum in paragraph no.9 of the impugned order has held that when driver was having licence to drive HGV then it includes the authority to drive LMV also and for such category of vehicle, there is no requirement of specified driving licence. We do

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not agree with this finding of the District Forum in view of provisions of Section 10 of the Motor Vehicles Act, 1988 and law laid down by Hon'ble National Commission in the case of **Ankit Goyal** (Supra).

11. Thus, the appeal succeeds and is allowed. The impugned order is set aside and the complaint filed by the respondent/complainant is dismissed. No order as to the cost of this appeal.

(Justice S.C.Vyas)
President
/02/2013

(Smt. Veena Misra)
Member
/02/2013

(V.K.Patil)
Member
/02/2013