

Narinder Singh vs New India Assurance Company Ltd And Ors on 4 September, 2014

Equivalent citations: 2014 AIR SCW 5065, 2014 (9) SCC 324, 2014 (6) AIR BOM R 79, (2014) 2 WLC(SC)CVL 550, (2015) 2 MAD LW 93, (2014) 10 SCALE 158, (2015) 1 CIVLJ 57, (2014) 4 RECCIVR 272, (2014) 4 JLJR 48, (2014) 144 ALLINDCAS 235 (SC), (2014) 4 ACJ 2421, (2015) 1 RAJ LW 517, (2015) 1 JCR 244 (SC), (2014) 3 ACC 890, (2014) 5 ALL WC 5122, 2014 AAC 2684 (SC), (2014) 4 PAT LJR 241, (2014) 3 CPR 609, (2014) 6 ANDHLD 149, (2014) 4 CGLJ 190, (2014) 107 ALL LR 726, (2014) 4 PUN LR 824, (2014) 4 CURCC 87, (2014) 3 KER LT 1074, (2014) 2 CLR 722 (SC), (2015) 1 CAL HN 119, (2014) 3 CURCC 138, (2014) 4 CPJ 11, (2014) 5 BOM CR 740, AIR 2014 SUPREME COURT 3761

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Bench: Pinaki Chandra Ghose, M.Y. Eqbal

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8463 OF 2014
(Arising out of Special Leave Petition (Civil) No.26308 of 2013)

Narinder Singh

...Appellant (s)

Versus

New India Assurance Company Ltd.
and others

...Respondent(s)

JUDGMENT

M.Y. Eqbal, J.:

Leave granted.

2. This appeal by special leave is directed against the judgment and order dated 12.4.2013 passed by the National Consumer Disputes Redressal Commission, New Delhi (in short, "National Commission") whereby Revision Petition No.4951 of 2012 of the appellant herein was dismissed upholding the judgment of the State Consumer Disputes Redressal Commission, Shimla (in short,

“State Commission”), which had dismissed the complaint and set aside the order of the District Consumer Disputes Redressal Forum, Shimla (in short, “District Forum”) granting the claim on non-standard basis.

3. The facts of the case lie in a narrow compass.

4. The petitioner-complainant had purchased a Mahindra Pick UP BS-II 4WD vehicle and got it insured for an amount of Rs. 4,30,037/- with respondent no.1-M/s. New India Assurance Company Ltd. for the period 12.12.2005 to 11.12.2006. The vehicle was temporarily registered for one month period, which expired on 11.1.2006. However, on 2.2.2006, the vehicle met with an accident and got damaged. The complainant lodged FIR and informed about it to the respondent-Company, which appointed a surveyor and assessed the loss at Rs.2,60,845/- on repair basis. The insurance claim was, however, repudiated by the opposite party on the ground that the person Rajeev Hetta, who was driving the vehicle at the time of the accident, did not possess a valid and effective driving licence and also the vehicle had not been registered after the expiry of the temporary registration. Consequently, the appellant filed a consumer complaint before the District Forum.

5. After hearing parties on either side and scanning the record of the case meticulously, the District Forum allowed the complaint and directed the respondent-Company to indemnify the complainant to the extent of 75% of 4,30,037/- along with interest at the rate of 9% per annum thereon with effect from the date of filing of the complaint. Aggrieved by the decision of the District Forum, Respondent-Company as well as the appellant-complainant approached State Commission by way of appeal. The State Commission by its common order disposed of both the appeals, allowing appeal of the Company and dismissing the complaint of the Complainant due to which the appeal preferred by the appellant-complainant was dismissed as infructuous.

6. Aggrieved by the decision of the State Commission, the appellant preferred revision petition before the National Commission under Section 21(b) of the Consumer Protection Act, 1986, which also stood dismissed. The National Commission observed thus:

“We have examined the entire material on record and given our thoughtful consideration to the arguments advanced before us. The State Commission, after a careful examination of the facts of this case and after examining the Licence Clerk of the Theog Licencing Authority came to the conclusion that the licence possessed by Rajeev Hetta had been endorsed for HGV with effect from 20.4.2002, which was valid for three years. The licence was also endorsed for LMV-Transport with effect from 7.6.2003, which was also valid for three years. The accident had taken place on 2.2.2006, on which date the licence for HGV had expired, but it remained valid for LMV- transport. It is clear, therefore, that the driver had a valid and effective licence. However, it is also clear from the facts on record that the temporary registration of the vehicle done by the Registration Authority of UT, Chandigarh had expired on 11.01.2006. At the time of accident on 2.2.2006, the vehicle was being driven without registration, which is prohibited under Section 39 of the Motor Vehicles Act, 1988 and is also an offence under Section 192 of the said Act.” Hence, present appeal by

special leave by the complainant.

7. We have heard learned counsel for the parties.

8. It has been contended on behalf of the appellant that in case of an accident of a vehicle, when insured, uses the vehicle contrary to conditions under Section 66 of the Motor Vehicles Act (in short, 'Act') or when the driver is holding improper licence contrary to requirement under Section 3 of the Act, claims are required to be dealt on non-standard basis by insurance companies. It has been further contended that similar yardstick had to be taken into account in case of improper registration of vehicle contrary to requirement under Section 39 of the Act and the claims ought to be settled on non-standard basis rather than outright repudiation of policy and rejection of claim in toto.

9. It is the case of the appellant that even when a vehicle is used without registration having been done, it does not amount to violation of any statutory requirement and in such a case, if the accident takes place, the insured is entitled to claim benefit under the insurance policy. There is no statutory bar in insuring the vehicle without registration and hence there is no bar in making payment of insured sum in the eventuality of an accident. Appellant submitted that the Apex Court in the case of *Amalendu Sahoo vs. Oriental Insurance Company Ltd.*, (2010) 4 SCC 536, has held that in case of any variation from the policy document/any breach of the policy document, the Insurance company cannot repudiate the claim in toto and the claim of the complainant ought to be settled on non-standard basis. It is further contended that the main purpose of any temporary/permanent registration is to have identification of the vehicle in the records of the Government authorities so as to identify the vehicle, particularly, in case of any motor accident and for tracing the owner of the vehicle, and in this case, there was a temporary registration number (although its date expired) affixed on the vehicle, which would lead to the owner and other details as required in law.

10. Per contra, respondent's case is that the vehicle can be driven only after proper registration and in the present case, the vehicle being driven without registration, which is in contravention to Section 192 of the Act. Further, there is no endorsement on the driving licence of Rajiv Hetta for driving HGV, which was valid up to 20.4.2002, and as such, there is violation of the terms and conditions of the insurance policy as the vehicle in question was being driven by a person who was not authorized to drive the same.

11. We have perused the order passed by the three Forums. The only issue for consideration is, as to whether the National Commission is correct in law in holding that the appellant is not entitled to claim compensation for damages in respect of the vehicle when admittedly the vehicle was being driven on the date of accident without any valid registration as contemplated under the provisions of Section 39 and Section 43 of Motor Vehicles Act. For better appreciation, Section 39 and Section 43 which are relevant are quoted herein below:-

“39. Necessity for registration.—No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered in accordance with this

Chapter and the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner:

Provided that nothing in this section shall apply to a motor vehicle in possession of a dealer subject to such conditions as may be prescribed by the Central Government.

"43. Temporary registration.—(1) Notwithstanding anything contained in section 40 the owner of a motor vehicle may apply to any registering authority or other prescribed authority to have the vehicle temporarily registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration and a temporary registration mark."

(2) A registration made under this section shall be valid only for a period not exceeding one month, and shall not be renewable:

Provided that where a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond the said period of one month for being fitted with a body or any unforeseen circumstances beyond the control of the owner, the period may, on payment of such fees, if any, as may be prescribed, be extended by such further period or periods as the registering authority or other prescribed authority, as the case may be, may allow.

(3) In a case where the motor vehicle is held under hire-purchase agreement, lease or hypothecation, the registering authority or other prescribed authority shall issue a temporary certificate of registration of such vehicle, which shall incorporate legibly and prominently the full name and address of the person with whom such agreement has been entered into by the owner."

12. A bare perusal of Section 39 shows that no person shall drive the motor vehicle in any public place without any valid registration granted by the registering authority in accordance with the provisions of the Act.

13. However, according to Section 43, the owner of the vehicle may apply to the registering authority for temporary registration and a temporary registration mark. If such temporary registration is granted by the authority, the same shall be valid only for a period not exceeding one month. The proviso to Section 43 clarified that the period of one month may be extended for such a further period by the registering authority only in a case where a temporary registration is granted in respect of chassis to which body has not been attached and the same is detained in a workshop beyond the said period of one month for being fitted with a body or unforeseen circumstances beyond the control of the owner.

14. Indisputably, a temporary registration was granted in respect of the vehicle in question, which had expired on 11.1.2006 and the alleged accident took place on 2.2.2006 when the vehicle was

without any registration. Nothing has been brought on record by the appellant to show that before or after 11.1.2006, when the period of temporary registration expired, the appellant, owner of the vehicle either applied for permanent registration as contemplated under Section 39 of the Act or made any application for extension of period as temporary registration on the ground of some special reasons. In our view, therefore, using a vehicle on the public road without any registration is not only an offence punishable under Section 192 of the Motor Vehicles Act but also a fundamental breach of the terms and conditions of policy contract.

15. In the aforesaid premises, we do not find any infirmity in the order passed by the State Commission and the National Commission.

16. For the reasons aforesaid, this appeal has no merit and is liable to be dismissed.

.....J. [M.Y. Eqbal]J [Pinaki Chandra Ghose] New Delhi
September 04, 2014