

The Divisional Manager Vs. Sumanbai

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Court : Maharashtra State Consumer Disputes Redressal Commission SCDRC
Aurangabad

Decided On : Mar-05-2014

Judge : The Honourable Mr. S.M. Shembole, Presiding Judicial Member & the Honourable Mrs. Uma S. Bora, Member

Appeal No. : First Appeal No. 504 of 2009 In Complaint Case No. 290 of 2008

Appellant : The Divisional Manager

Respondent : Sumanbai

Judgement :

Uma S. Bora, Member:

1. National Insurance Company through its Divisional Manager challenges in this appeal judgment and order passed by District Forum, Latur on 30.04.2009 while allowing consumer complaint No.290/2008.

2. Facts in nutshell are as under:

Complainant Sumanbai Hanumantrao Salunke resident of Borgaon Tq. Ausa Dist. Latur is wife of Hanumanrao Dnyanoba Salunke. Said Hanumat had purchased one Minidoor Auto for the livelihood. Said vehicle was insured with opponent insurance company from 12.12.2005 to 11.12.2006 through policy bearing No.271401/31/05/6300003080. On 28.03.2006 Hanumat was plying his auto on

Murud to Latur road. One bus bearing No. MH.20.B.5946 gave dash him from the front side. In the said accident Hanumant was died. Accordingly Crime No.11/2006 was registered at Police Station Gategaon. Complainant informed the said incident to the insurance company and demanded the policy amount, but insurance company did not settle her claim. Therefore she approached to Forum.

3. Insurance Company appeared before the Forum and resisted the complaint on the ground that deceased Hanumant was not having the valid and effective driving license at the time of accident. Therefore claim of complainant was rightly repudiated by the insurance company. Complainant was several times asked to supply the required documents including the driving license of the deceased. But complainant did not produce the said documents. Therefore claim of complainant was rightly repudiated.

4. After hearing both the parties District Forum held that when the driver of the vehicle had not contributed in any manner to the accident repudiation of the claim by insurance company is not proper. Forum partly allowed the complaint and directed opponent insurance company to pay Rs.2,00,000/- with 9% interest from 12.11.2007. Forum also directed appellant to pay Rs.2000/- for mental agony and Rs.2000/- for the cost of complaint.

5. Being aggrieved by the said judgment and order insurance company came in appeal. Adv. Shri. D. V. Soman appeared for appellant. Adv. Shri. N. G. Kale appeared for respondent. It is submitted by Adv. Soman that the deceased Hanumant was not possessing valid and effective driving license at the time of accident. After receipt of claim by the complainant she was several time asked to supply the copy of valid driving license but complainant failed to submit all the required documents. Therefore her claim was rightly repudiated. It is further submitted by Adv. Soman the District Forum while allowing the complaint ignored the legal position and settled the principle of law. Therefore the said order be quashed and appeal be allowed. On the date of hearing none appeared for respondent, therefore we did not get the opportunity to hear the respondent.

6. Thus we heard the argument of Adv. Soman and perused the record. It is seen from the record and argument of Adv. Soman that the deceased Hanumant was

not possessing valid and effective driving license at the time of accident. It is for the complainant to obtain the duplicate copy of said driving license from the RTO authorities. It is the contention of the complainant that Hanumant was possessing driving license at the time of accident. It is the contention of the complainant that Hanumant was possessing driving license but it was lost at the time of accident. In our view, therefore it is for the complainant to produce the duplicate copy of the said driving license by obtaining it from RTO. As complainant failed to produce the copy of driving license insurance company rightly repudiated the claim in absence of any proof about driving license of the deceased. As per the provisions of Motor Vehicle Act, every person who is driving the vehicle is under obligation to possess the driving license of particular class of the vehicle which he is driving. The Forum relied on the Jitendra Vs. Oriental Insurance 2003 SCC 420, wherein the claim of the owner of the vehicle was repudiated by the insurance company and driver was not involved in the said accident. In our view therefore District Forum did not consider the fact and evidence in proper perspective while deciding the complaint. Hence it needs to quash and set aside. Hence we pass the following order.

ORDER

1. The appeal is allowed.
2. The judgment and order passed by District Forum is hereby quashed and set aside.
3. Complaint stands dismissed.
4. No order as to cost.