

**SUPREME COURT OF INDIA**

National Insurance Co. Ltd.

Vs.

Harbhajan Lal

C.A.No.3501 of 2004

(B.N. Agrawal and G.S. Singhvi JJ.)

16.09.2008

**ORDER**

1. Heard learned counsel for the parties.

2. The District Consumer Disputes Redressal Forum [for short, "District Forum"] dismissed the complaint on the ground that the driving licence was a forged one. In view of this finding, the District Forum came to the conclusion that as there was no deficiency in service, the complaint was fit to be dismissed and the same was, accordingly, dismissed. Against the said order, when the matter was taken to the State Consumer Disputes Redressal Commission [for short, "State Commission"] in appeal, the order was reversed by placing reliance upon the judgement rendered by this court in the case of *National Insurance Company Limited vs. Swaran Singh & Ors.*<sup>1</sup>, which order has been confirmed in revision by the National Consumer Disputes Redressal Commission [for short, "National Commission"].

3. Hence, this appeal by special leave.

4. Learned counsel appearing on behalf of the appellant submitted that the judgment rendered by this Court in the case of Swaran Singh (supra) was applicable only in relation to the case of third party. In the present case, no complaint was filed by third party but the complaint was filed by the insured. Learned counsel appearing on behalf of the appellant stated that it has been clarified by this Court in the case of *National Insurance Company Limited vs. Laxmi Narain Dhut*<sup>2</sup> that the ratio laid down in the case of Swaran Singh (supra) would apply only in relation to the cases of third party and not in relation to the own damaged cases, in which eventuality the insurer is only liable to show that the licence was fake one.

5. Accordingly, the appeal is allowed, impugned orders rendered by the State Commission and the National Commission are set aside and the same passed by the District Forum dismissing the complaint is restored.

6. Civil Appeal Nos.3249 of 2003, 3250 of 2003, 3251 of 2003 and 3252 of 2003:

“Perused the records.

We do not find any ground to interfere with the impugned orders.

The civil appeals are, accordingly, dismissed.

No costs.

Civil Appeal No.3198 of 2005:

Heard learned counsel appearing on behalf of the parties.

In the facts and circumstances of the case, we are not inclined to interfere with the impugned order.

The civil appeal is, accordingly, dismissed.

Civil Appeal No.5644 of 2005:

Heard learned counsel appearing on behalf of the appellant.

We do not find any ground to interfere with the impugned order.

The civil appeal is, accordingly, dismissed.

Civil Appeal No.3501 of 2004:

Heard learned counsel appearing on behalf of the appellant.”

7. In spite of service of notice, nobody has entered appearance to contest the prayer made in this appeal.

8. In the present case, the District Consumer Disputes Redressal Forum [for short, "District Forum"] allowed the complaint but when the matter was taken in appeal, the same was reversed and the complaint was dismissed. Against the order of the Appellate Authority, a revision was filed before the National Consumer Disputes Redressal Commission [for short, "National Commission"], which though has recorded a finding categorically that the licence of the driver employed by the insured was fake one but there was nothing to show that this fact was within the knowledge of the insured. Hence, this appeal by special leave.

9. In our view, the point involved in the present case is squarely covered by a decision of this Court in the case of *National Insurance Company Limited vs. Laxmi Narain Dhut [Supra]*, in which it has been laid down that no sooner the insurer is able to prove that the licence was fake one, the insurer is absolved from its liability.

10. This being the position, we are of the view that the National Commission was not justified in allowing the revision application.

11. Accordingly, the appeal is allowed, impugned order rendered by the National Commission is set aside and the same passed by the State Consumer Disputes Redressal Commission is restored.

12. Civil Appeal No.6267 of 2003:

13. Heard learned counsel appearing on behalf of the appellant.

14. We do not find any ground to interfere with the impugned order.

15. The civil appeal is, accordingly, dismissed.

No costs.

“Civil Appeal No.5554 of 2004:

Perused the records.

We do not find any ground to interfere with the impugned order.

The civil appeal is, accordingly, dismissed.

No costs.

Civil Appeal No.7656 of 2004:

Heard learned counsel appearing on behalf of the parties.”

15. We do not find any ground to interfere with the impugned order.

16. The civil appeal is, accordingly, dismissed.

No costs.

<sup>1</sup>[2004 (3) S.C.C.297]

<sup>2</sup>[2007 (3) S.C.C.700]