

NARINDER SINGH.

v.

NEW INDIA ASSURANCE COMPANY LTD. & ORS.
(Civil Appeal Nos.8463 of 2014)

SEPTEMBER 4, 2014

[M.Y. EQBAL AND PINAKI CHANDRA GHOSE, JJ.]

Motor Vehicles Act, 1988 – ss. 39, 43 and 192 – Accident of vehicle without registration – Temporary registration had expired prior to date of accident – Claim for compensation from insurer, under Consumer Protection Act – Entitlement – Held: The complainant was not entitled to compensation – The temporary registration had already expired and temporary registration was neither extended nor the vehicle was registered – Using the vehicle on public road without any registration is not only an offence punishable u/s 192, it is also fundamental breach of the terms and conditions of policy contract – Consumer Protection Act, 1986.

The question for consideration in the present case was whether the appellant was entitled to compensation under Consumer Protection Act 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.

Dismissing the appeal, the Court

HELD: Section 39 of Motor Vehicles Act 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. However, according to Section 43, the owner of the vehicle may apply to the registering authority for

A 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 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. [Paras 12 and 13] [557-G-H; 558-A-C]

2. In the present case, 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. Therefore, using a vehicle on the public road without any registration is not only an offence punishable under Section 192 of the Motor Vehicle Act but also a fundamental breach of the terms and conditions of policy contract. [Para 14] [558-D-F]

CIVIL APPELLATE JURISDICTION : Civil Appeal No 8463 of 2014.

From the Judgment and Order dated 12.04.2013 of the National Consumer Disputes Redressal Commission, New Delhi in Revision Petition No. 4951 of 2012.

Virender Goswami, Gautam Naryan for the Appellant.

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Senthil Jagadeesan, Dr. Anand Vardhan Sharma, A
Chandra Pratap Singh, Varinder Kumar Sharma, V.K. Vasudev
for the Respondents.

The Judgment of the Court was delivered by

M.Y. EQBAL, J.: 1. Leave granted. B

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 C
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 D
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 E
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 F
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 G
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. H

A 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
B 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
C the appeal preferred by the appellant-complainant was
dismissed as infructuous.

D 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:

E "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
F 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
G 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,
H Chandigarh had expired on 11.01.2006. At the time of

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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.” A

Hence, present appeal by special leave by the complainant. B

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. C D E

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 H

A 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. A

“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.” B

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

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. D E

(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.” F

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. G

A 13. However, according to Section 43, the owner or the
vehicle may apply to the registering authority for temporary
B 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
C 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
D 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
E 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
F 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.

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