

First Appeal No.
220 of 2018

Deputy Manager, National Insurance Co. Ltd.
Versus
Sh. Hasim

29.04.2024

STATE CONSUMER DISPUTES REDRESSAL COMMISSION UTTARAKHAND
DEHRADUN

Date of Admission: 02.01.2019
Date of Final Hearing: 24.04.2024
Date of Pronouncement: 29.04.2024

FIRST APPEAL NO. 220 / 2018

Deputy Manager, National Insurance Company Limited
Regional Office, Jai Plaza
56, Rajpur Road, Dehradun – 248001

(Through: Sh. Sudhanshu Dwivedi, Advocate)
..... Appellant

Versus

Sh. Hasim S/o Sh. Mohd. Yameen
R/o Village Sultanpur Adampur
Tehsil Laksar, District Haridwar (Uttarakhand)

(Through: None)
..... Respondent

Coram:

Ms. Kumkum Rani,
Mr. B.S. Manral,

President
Member

ORDER

(Per: Ms. Kumkum Rani, President):

This appeal has been directed against the impugned judgment and order dated 01.11.2018 passed by learned District Consumer Disputes Redressal Forum, Haridwar (hereinafter to be referred as “The District Commission”) in consumer complaint No. 98 of 2013, styled as Sh. Hasim Vs. National Insurance Company Limited, wherein and whereby the consumer complaint was allowed.

2. The facts giving rise to the present appeal, in brief, are, as such that the respondent / complainant had filed consumer complaint No. 98 of 2013 before the District Commission, stating that on 03.05.2010, he had purchased a truck (Swaraj Mazda) bearing registration No. UP14-Q-9695 from Sh. Khurshid and registration certificate of the

vehicle was transferred in his favour on 27.01.2011. The said vehicle was got insured with the appellant / opposite party (National Insurance Company Limited) for the period from 15.03.2012 to 14.03.2013 vide policy bearing No. 462200/31/11/6300006758, upon payment of requisite premium amount of Rs. 14,114/-. However, on account of mistake on the part of the insurance company, in the insurance policy, the name of the insured was wrongly mentioned as Khurshid (though in the policy, it is mentioned as Sh. Khushid), in place of the complainant - Sh.-Hasim. The said mistake could not come to the notice / knowledge of the complainant on account of his being an illiterate person. On dated 03.09.2012, the insured vehicle met with an accident, intimation whereof was given to the insurance company and an estimate of repairs to the tune of Rs. 3,14,767/- was submitted with the insurance company, but the insurance company did not settle the claim. A legal notice dated 03.10.2012 was sent to the insurance company, but to no avail. Therefore, the consumer complaint was submitted by the complainant before the District Commission.

3. The appellant / opposite party submitted written statement before the District Commission, pleading that the consumer complaint has been submitted on wrong and concocted facts. It is incorrect to say that in the policy papers, the insurance company has wrongly mentioned the name of the previous owner of the vehicle as insured. The vehicle in question was never got insured by the complainant in his name, therefore, the insurance company is not liable to pay any amount to the complainant. There was no privity of contract between the complainant and the opposite party and no deficiency in service has been committed by the insurance company. Hence, the consumer complaint is liable to be dismissed.

4. After hearing learned counsel for the appellant / opposite party and after taking into consideration the entire material available on record, learned District Commission has passed the impugned judgment and order on dated 01.11.2018, wherein it has held as under:

“परिवाद स्वीकार किया जाता है। विपक्षी बीमा कम्पनी को आदेशित किया जाता है कि वह आदेश की तिथि से एक माह के भीतर परिवादी को 3,14,767/- ₹0 तथा क्षतिपूर्ति एवं वाद व्यय के रूप में 5000/- ₹0 की धनराशि भुगतान करना सुनिश्चित करें।”

5. On having been aggrieved by the impugned judgment and order, the present appeal has been preferred by the insurance company as an appellant, alleging that the impugned judgment and order passed by the District Commission is against law, facts and merits of the case and the District Commission has not considered the evidence filed by the appellant. The complainant has not submitted the registration certificate of the vehicle with the appellant to show that he is the registered owner of vehicle bearing registration No. UP14-Q-9695, showing that on the date of inception of insurance, he was the registered owner of the vehicle. It was further pleaded that the provision of Section 157(2) of the Motor Vehicles Act, 1988 has been violated by the complainant, which provides that the transferee shall apply within fourteen days from the date of transfer in the prescribed form to the insurer for making necessary changes in regard to the fact of transfer in the certificate of insurance and the policy described in the certificate in his favour and the insurer shall make the necessary changes in the certificate and the policy of insurance in regard to the transfer of insurance. The complainant neither sent any intimation regarding

purchase of the vehicle from Sh. Khurshid, nor submitted any registration certificate within fourteen days of the date of alleged transfer, requesting the insurer to transfer the policy in his favour. The amount awarded by the District Commission is quite exorbitant as well as against the facts and merits of the case. Thus, the impugned judgment and order passed by the District Commission being perverse, is liable to be set aside.

6. We have heard learned counsel for the appellant and perused the record. None appeared on behalf of respondent / complainant inspite of sufficient service through publication, hence vide order dated 10.01.2024, it was directed that the appeal shall be heard ex-parte against respondent.

7. The documents available on record have transpired that in the certificate of insurance cum policy schedule, the insured's name is mentioned as Sh. Khurshid (Sh. Khushid), whereas the consumer complaint was filed by Sh. Hasim S/o Sh. Mohd. Yameen. As per the complainant's case, the subject vehicle was purchased by him from the previous owner – Sh. Khurshid on 03.05.2010 and his name was recorded in the registration certificate of the vehicle on 27.01.2011. The registration certificate of the vehicle has not been submitted on record to show that the registration certificate was actually transferred in complainant's favour. The complainant has not submitted any cogent and reliable document to show as to when he has given intimation to the insurance company regarding alleged transfer of the registration certificate in his favour and requesting the insurance company to transfer the certificate of insurance in his favour. It is an established law, as provided under Section 157(2) of the Motor Vehicles Act, 1988 that the transferee shall apply within fourteen days from the date of transfer in the prescribed form to the insurer for making

necessary changes in regard to the fact of transfer in the certificate of insurance and the policy described in the certificate in his favour and the insurer shall make the necessary changes in the certificate and the policy of insurance in regard to the transfer of insurance, but the said mandatory compliance was not done by the complainant. Thus, it is clear that the complainant has violated the provision of Section 157(2) of the Motor Vehicles Act, 1988.

8. In view of the above discussion, it is proved that learned District Commission has wrongly allowed the consumer complaint, ignoring the aforesaid mandatory provision of law. Therefore, we are of the considered view that learned District Commission has allowed the consumer complaint without appreciating the facts, evidence and merits of the case and has exercised the jurisdiction not vested in it by law. The impugned judgment and order is perverse and suffers from illegality & infirmity and is liable to be set aside. Thus, we are inclined to interfere with the finding recorded by the District Commission. Consequently, the appeal is liable to be allowed.

9. Appeal is allowed. Impugned judgment and order dated 01.11.2018 passed by the District Commission is set aside and consumer complaint No. 98 of 2013 is hereby dismissed. No order as to costs of the appeal. The amount deposited by the appellant with this Commission, be released in its favour.

10. A copy of this Order be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986 / 2019. The Order be uploaded forthwith on the website of the Commission for the perusal of the parties. A copy of this Order be sent to the concerned District Commission for record and necessary information.

11. File be consigned to record room along with a copy of this Order.

(Ms. Kumkum Rani)
President

(Mr. B.S. Manral)
Member

Pronounced on: 29.04.2024