

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

NEW DELHI

REVISION PETITION NO. NC/RP/1902/2024

(Against the Order dated 16th April 2024 in Appeal A/17/1998 of the State Consumer Disputes Redressal Commission Madhya Pradesh)

VAN MANDALADHIKARI

PRESENT ADDRESS - THROUGH MANAGING DIRECTOR DISTT. GUNA, LAGHU VANOPAJ SAHAKARI UNION MRYDT., DISTT. GUNA , GUNA , MADHYA PRADESH ,

.....Petitioner(s)

Versus

NATIONAL INSURANCE COMPANY LIMITED AND ANR.

PRESENT ADDRESS - THROUGH DIVISIONAL MANAGER, DIVISION OFFICE - I, BHOPAL M P , BHOPAL , MADHYA PRADESH ,

RISHABH MOTORS SALES PRIVATE LIMITED

PRESENT ADDRESS - THROUGH MANAGER A.B. ROAD, GUNA , GUNA , MADHYA PRADESH ,

.....Respondent(s)

BEFORE:

HON'BLE DR. INDER JIT SINGH , PRESIDING MEMBER

HON'BLE DR. SADHNA SHANKER , MEMBER

FOR THE PETITIONER:

MR. RITESH KHARE, ADVOCATE

FOR THE RESPONDENT:

MR. MANSIMRAN SINGH, ADVOCATE FOR R-1 NEMO FOR R-2

DATED: 24/03/2025

ORDER

1. The present Revision Petition (RP) has been filed by the Petitioner(s) against Respondent(s) as detailed above, under section 52(1) (b) of Consumer Protection Act 2019, against the order dated 16.04.2024 of the State Consumer Disputes Redressal Commission, Madhya Pradesh (hereinafter referred to as the 'State Commission'), in First Appeal (FA) No.1998 of 2017 in which order dated 30.08.2017, District Consumer Disputes Redressal Commission, Guna. (hereinafter referred to as District Commission) in Consumer Complaint (CC) no.297/2016 of 2016 was challenged, inter alia praying to set aside the order passed by the State

Commission.

2. While the Revision Petitioner (hereinafter also referred to as Complainant) was Respondent-1; Respondent-1(hereinafter also referred to as OP-1) was Appellant and Respondent-2 (hereinafter also referred to as OP-2) was Respondent-2 in the said FA/2998/2017 before the State Commission. The Revision Petitioner was Complainant; Respondent-1 was OP-1 and Respondent-2 was OP-2 before the District Commission in the CC/297/2016.

3. Notice was issued to the Respondent(s) on 03.09.2024. Despite service none appeared for Respondent-2 and was proceeded ex-parte. Petitioner filed Written Arguments/Synopsis on 24.02.2025 and Respondent-1 filed Written Arguments/Synopsis on 27.02.2025 respectively.

4. Brief facts of the case, as emerged from the RP, Order of the State Commission, Order of the District Commission and other case records are that:

The Complainant's vehicle no. MP 08 CA 4426, was insured for the period 22.02.2015 to 21.02.2016 and met with an accident on 06.12.2015 while traveling from Jamner to Guna. The accident occurred due to the reckless driving of a truck, which collided with the complainant's vehicle, causing it to overturn and sustain total damage. The vehicle was driven by Mahesh Bunkar, a government-trained driver since 1995, who lost his life in the accident. A First Information Report (FIR) was lodged at Jamner Police Station (Crime No. 397/15), and the insurance company was duly notified on 07.12.2015. The damaged vehicle was towed and inspected, following which an insurance claim was submitted on 22.12.2015. However, on 23.02.2016, the insurance company repudiated the claim, citing the expiration of the driver's license on 10.10.2015. The complainant contends that Mahesh Bunkar was a duly licensed and government-trained driver

at the time of the accident and that the claim was wrongfully denied.

5. Vide Order dated 30.08.2017, in the CC no. 297 of 2016 the District Commission has-

- (i) Allowed the complaint;
- (ii) Directed OP-1 to pay 75% of the damage amount i.e. Rs. 84,907/- to the complainant;
- (iii) Directed OP-1 to pay the amount of parking charges levied by OP-2 in respect of parking of vehicle till the date of repair of vehicle.

6. Aggrieved by the said Order dated 30.08.2017 of District Commission, OP-1/Respondent-1 appealed before State Commission and the State Commission vide order dated 16.04.2024 in FA No.1998 of 2017 allowed the Appeal and dismissed the complaint.

7. Petitioner has challenged the said Order dated 16.04.2024 of the State Commission mainly/ on following grounds:

- (i) The driver of the insured vehicle had held a valid driving license for many years, which had only expired on 10.10.2015. The driver had the intention to renew the license, but before he could do so, the unfortunate accident occurred. Under these circumstances, the insurance claim ought to have been settled on a Non-Standard Basis by OP-1 rather than being outrightly rejected. The State Commission erred in treating the non-renewal of the driving license as a fundamental breach of the insurance policy. A fundamental breach applies in cases where the driver never possessed a valid license, which is not applicable

here. Since the driver had a previously valid license and its lapse was only due to non-renewal, the insurance company ought not to have denied the claim outright but should have considered settlement on a Non-Standard Basis, as per established principles in insurance law.

- (ii) The State Commission erred in disregarding the District Commission's observation that the mere expiry of a valid driving license at the time of the accident does not constitute a total violation of the policy terms. OP-1 committed a deficiency in service by completely repudiating the claim instead of settling it on a Non-Standard Basis, as it ought to have done. Further, the State Commission overlooked a crucial fact that OP-1 had specifically instructed the Complainant to take the insured vehicle to OP-2's workshop for repairs and obtain an estimation. Since the complainant complied with these instructions, OP-1 was solely liable for paying the parking and estimation charges demanded by OP-2. The repudiation of the claim in its entirety was therefore unjustified and contrary to settled principles governing insurance claims.

- (iii) The State Commission failed to consider the letter dated 03.06.2016, issued by OP-2 through his counsel, wherein OP-2 expressly admitted that the vehicle in question was brought to the workshop on the directions of OP-1 and that the repair estimation was also provided at OP-1's instruction. Since the complainant acted in compliance with OP-1's directions, OP-1 was solely liable for the parking and estimation charges demanded by OP-2. The failure of OP-1 to honor its commitment constitutes a clear deficiency in service, warranting intervention and appropriate relief.

8. Heard counsels of both sides. Contentions/pleas of the parties, on various issues raised in the RP, Written Arguments, and Oral Arguments advanced during the hearing, are summed up below.

- (i) The learned counsel for the complainant contended that the State Commission erred in failing to appreciate that, at the time of hiring, the complainant had duly verified that the driver possessed a valid driving license. The subsequent expiry of the license after the driver's hiring cannot be attributed as a fault of the complainant and does not amount to a fundamental breach of the insurance policy. Moreover, the mere fact that the driving license had expired at the time of the accident does not, by itself, constitute a total violation of the terms and conditions of the policy. The Respondent-1/OP-1 committed a deficiency in service by repudiating the claim in its entirety, rather than considering its settlement on a non-standard basis.
- (ii) The State Commission erred in not considering the well-settled law laid down by the Hon'ble Supreme Court of India in **National Insurance Company Limited v. Nitin Khandelwal** [(2008) 11 SCC 259], wherein it was clearly held that the “12. *Insurance Company is liable to indemnify the owner of the vehicle when the insurer has obtained comprehensive policy for the loss caused to the insurer. The respondent submitted that even assuming that there was a breach of condition of the insurance policy, the appellant Insurance Company ought to have settled the claim on non-standard basis....*”
- (iii) The Hon'ble Supreme Court in **Ashok Kumar v. New India Assurance Co. Ltd.** [Civil Appeal No. 4758 of 2023] has observed that “36.... *Even if there was some carelessness, on the peculiar facts of this case, it was not a fundamental breach of Condition 5 warranting total repudiation.....*” In the

instant case, the District Commission rightly directed the Insurance Company to admit the claim at 75% of the total reparation cost, based on the surveyor's report.

- (iv) This Commission has also settled the law in **National Insurance Company Limited v. Munnilal Yadav** [II (2001) CPJ 53 (NC)], wherein it was held that if a driver does not hold a valid license at the time of an accident, the insurance claim should still be admitted on a non-standard basis. The State Commission failed to consider this well-established legal position, resulting in an erroneous and unjust judgment, which warrants reconsideration.
- (v) The learned counsel for the Respondent-1/OP-1 submitted that it is an undisputed fact that the driver of the insured vehicle did not hold a valid driving license at the time of the accident. The complainant has not denied that, on the date of the accident, the driver's license had already expired, and there is no evidence on record to suggest that any application for its renewal was made following its expiry on 10.10.2015.
- (vi) The counsel further argued that the driving license in question was never renewed after its expiry. Accordingly, in view of Section 3 of the Motor Vehicles Act, the deceased driver was not legally authorized to drive the insured vehicle in a public place. Additionally, the complainant has not only violated the terms of the insurance policy but has also contravened Section 5 of the Motor Vehicles Act by permitting a person without a valid driving license to operate the insured vehicle at the time of the accident.
- (vii) The complainant, holding the position of Divisional Forest Officer and ex-officio Managing Director of the District Minor Forest Produce Co-Operative

Union Limited, Guna, had a legal duty to exercise due diligence in ensuring adherence to the terms of the insurance policy, particularly the requirement that the vehicle be driven only by a duly licensed driver. The willful authorization granted to the deceased driver to operate a government vehicle without a valid driving license constitutes a fundamental breach of the policy conditions. The State Commission has, therefore, correctly held that the absence of a valid and effective driving license at the time of the accident amounts to a fundamental breach, and on this ground, the insurance claim cannot be entertained, even on a non-standard basis.

- (viii) The counsel for the OP-1 further submitted that the complainant's failure to ensure compliance with the terms and conditions of the insurance policy constitutes a deliberate and fundamental breach, thereby justifying the repudiation of the insurance claim. Moreover, the authorities and precedents relied upon by the complainant are distinguishable from the present case and do not support the complainant's contention. It remains undisputed that the driver of the insured vehicle did not possess a valid driving license at the time of the accident, as the same had already expired on 10.10.2015, well before the accident on 06.12.2015 and was never renewed.
- (ix) In **New India Assurance Company Limited v. Suresh Chandra Aggarwal** [(2009) 15 SCC 761], the Hon'ble Supreme Court observed that *"18. From a plain reading of Section 15 of the Act, it is clear that if an application for renewal of licence is made within 30 days of the date of its expiry, the licence continues to be effective and valid without a break as the renewal dates back to the date of its expiry. Whereas, when an application for renewal is filed after more than 30 days after the date of its expiry, the proviso to sub-section (1) of Section 15 of the Act gets attracted and the licence is renewed only with effect*

from the date of its renewal, meaning thereby that in the interregnum between the date of expiry of the licence and the date of its renewal, there is no effective licence in existence. The provision is clear and admits of no ambiguity.”

- (x) In **Beli Ram v. Rajinder Kumar & Anr.** [(2022) 15 SCC 572], the Hon'ble Supreme Court has observed that:- *“17. The Delhi High Court in Tata AIG General Insurance Co. Ltd. v. Akansha, 2015 SCC OnLine Del 6758 found that the driving licence having expired led to the natural finding that there was no valid driving licence on the date of the accident. The initial onus was discharged by the insurance company in view of the licence not being valid on the date of the accident. The onus, thereafter, shifted to the owner/insured to prove that he had taken sufficient steps to ensure that there was no breach of the terms and conditions of the insurance policy. Since no evidence had been led in this behalf, a presumption was drawn that there was wilful and conscious breach of the terms and conditions of the insurance policy.”*

9. We have carefully gone through the orders of the State Commission, District Commission, and other relevant records. The facts of the case clearly establish that the insured vehicle met with an accident on 06.12.2015 during the insurance period, resulting in the death of the driver. The Respondent-1/OP-1 Insurance Company repudiated the claim on the ground that, on the date of the accident, the driver did not possess a valid driving license. This fact remains undisputed by the Petitioner/Complainant. The accident occurred on 06.12.2015, while the driving license had expired on 10.10.2015. The counsel for the complainant contended that the claim, as allowed by the District Forum, should be considered on a non-standard basis. However, the counsel for OP-1 Insurance Company submitted that operating a vehicle without a valid driving license constitutes a fundamental breach of the insurance policy, thereby justifying the complete repudiation of the claim. The absence of a valid driving license amounts to a fundamental breach of the terms and conditions of the insurance policy. Consequently, the rejection of the insurance

claim by the insurance company on this ground does not amount to a deficiency in service. In **New India Assurance Co. Ltd. vs. Suresh Chandra Aggarwal**, (Civil Appeal No. 44/2003), 10.07.2009, the Hon'ble Supreme Court observed that¹⁸. *From a plain reading of Section 15 of the Act, it is clear that if an application for renewal of licence is made within 30 days of the date of its expiry, the licence continues to be effective and valid without a break as the renewal dates back to the date of its expiry. Whereas, when an application for renewal is filed after more than 30 days after the date of its expiry, the proviso to sub-section (1) of Section 15 of the Act gets attracted and the licence is renewed only with effect from the date of its renewal, meaning thereby that in the interregnum between the date of expiry of the licence and the date of its renewal, there is no effective licence in existence. The provision is clear and admits of no ambiguity.....* ". The Hon'ble Supreme Court in **National Insurance Co. Ltd. v. Jarnail Singh**, (2007) 15 SCC 28, held that:- " 6. *Under Section 15(1) of the Motor Vehicles Act, 1988 a driving licence can be renewed from the date of its expiry if an application is made to it for that purpose. But the proviso to the said sub-section says that "where the application for the renewal of a licence is made more than thirty days after the date of its expiry, the driving licence shall be renewed with effect from the date of its renewal". In the present case, the fact that the driving licence was renewed only with effect from 28-10-1996 shows that the first proviso to Section 15(1) abovequoted had applied and its corollary is that driver had no licence to drive the vehicle on the date of accident i.e. 20-10-1994.*" The Hon'ble Supreme Court in **Ashok Kumar Versus New India Assurance Company Limited** (2024) 1 SCC 357, observed that *"It is well settled in a long line of judgments of this Court that any violation of the condition should be in the nature of a fundamental breach so as to deny the claimant any amount."* Hence, if there is fundamental breach of the policy or breach of Motor Vehicle Act/Rules, it entitles the insurance company to repudiate the claim. Section 3 of the Motor Vehicles Act, 1988 requires that the car shall be driven by a person having valid driving licence. Therefore, violation of mandatory provision of law is proved. The Hon'ble Supreme Court in **Pradeep Kumar Jain Vs. Citibank & Anr.** (1999) 6 SCC 361, **HDFC Vs. Kumari Reshma**, (2015) 3 SCC 679, **Central Bank of India Vs. Jagbir Singh**, (2015) 14 SCC 788 and **United India Insurance Company Ltd. Vs.**

Sushil Kumar Godara, 2021 SCC OnLine 844, held that in case of violation of Motor Vehicle Act, 1988 the insurer is absolved from its liability under the insurance policy. In the present case, it stands proved that the driver did not have an effective and valid driving licence on the date of accident.

10. In view of the foregoing, we are in agreement with the observation/findings of State Commission. There is no illegality or material irregularity or jurisdictional error in the order of State Commission, hence the same is upheld. Accordingly, RP is dismissed.

11. The pending IAs in the case, if any, also stand disposed off.

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DR. INDER JIT SINGH
PRESIDING MEMBER

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DR. SADHNA SHANKER
MEMBER