



GAHC010233392017

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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : MACApp./93/2017

ORIENTAL INSURANCE COMPANY LTD
HAVING ITS REGISTERED OFFICE AT ORIENTAL HOUSE, A 25/27 ASAF ALI
ROAD, NEW DELHI 110002 AND REGIONAL OFFICE AT GUWAHATI-7,
REPRESENTED BY THE REGIONAL MANAGER.

VERSUS

MUSTAFIZUR RAHMAN and 3 ORS
S/O SAFAR UDDIN AHMED

2:MOUSUMI AKTAR
D/O MUSTAFIZUR RAHMAN

3:SHAHIL RANA
S/O MD. MUSTAFIZUR RAHMAN
ALL ARE R/O VILL. SEDAMARI
SANKARGHOLA
P.O. BALAPRA
P.S. JOGIGHOPA
DIST. BONGAIGAON
ASSAM.

4:KOMAL BARUAH

S/O LATE KRISHNA BARUAH
R/O VILL. KOREYA
P.O. ASHOK PAPER MILL
P.S. JOGOGHOPA
DIST. BONGAIGAON
ASSAM

Advocate for the Petitioner : MR.S DUTTA

Advocate for the Respondent : MR. M KHAN

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY

For the Appellant : Mr. S Dutta, Senior Advocate
Ms. S Muchahari, Advocate

For the Respondents : Mr. M Khan, Advocate

Date of Hearing : 02.02.2023, 16.02.2023, 24.02.2023, 23.03.2023

Date of Judgement : 23.03.2023

JUDGEMENT & ORDER (ORAL)

Heard Mr. S Dutta, learned Senior counsel assisted by Ms. S Muchahari, learned counsel for the appellant. Also heard Mr. M Khan, learned counsel for the respondents.

2. The brief facts of the present case as pleaded by the claimant are that on 26.05.2013 at about 6 p.m. when the claimant No. 1 was riding a motor cycle bearing registration No. AS-19 D-4694 with his wife as a pillion rider all of a sudden one child crossed the road through the front side of the vehicle near Dumerguri Part-III on PWD road under Abhayapuri Police Station and accordingly the claimant No. 1 had to apply sudden breaking, for which he lost control and fell down. The claimant's wife, namely, Khalida Khatun got grievous injuries, she was shifted to Abhayapur Civil Hospital for treatment, where she succumbed to the injuries and died.

Later on, post-mortem examination was done. A police case being Abhayapuri P.S. case No. 131/2013 under Section 279/304 (A) IPC was registered. Accordingly, the claim for compensation of Rs. 5,72,000/- was made before the learned Member, Motor Accident Claims Tribunal, Bongaigaon, which was registered as MAC case No. 140/2013.

3. The Insurance Company/ appellant under whom, the motor cycle was insured, appeared before the learned Tribunal below, contested the claim by filing written statement. Amongst others, they took a specific stand that the rider/ claimant was not having a valid driving licence. Both the sides led evidence, documentary and oral. From the material available on record certain undisputed facts are discernible, which are also not disputed by Mr. Khan, learned counsel for the claimant can be summarized as follows:

- I. The original driving licence was issued to the claimant on 19.10.2004, which was valid up to 18.10.2007 i.e. for a period of 3 years. Such licence was renewed on 17.12.2009 and was valid up to 16.12.2012 i.e. for a period of 3 years. The accident took place on 26.05.2013.
- II. The driving licence, which expired on 16.12.2012 was again renewed on 06.10.2015 after the accident and it was made valid up to 30.09.2018 i.e. also for a period of 3 years.
- III. The Ext 7, driving licence reflects that the driving licence was issued to the claimant on 19.10.2004. The date of birth of the licensee is 30.05.1983. The licensee is licenced to drive throughout India Motor cycle, LMV Cab, transport only. The driving licence was numbered

as 9726/BNG/Proff.

IV. In the aforesaid backdrop, the plea raised and evidence led by the Insurance Company that on the date of accident i.e. on 26.05.2013, there was no valid licence, therefore, the insurance company cannot be fastened with the liability of the compensation, was negated by the learned Tribunal below holding that in terms of Section 14 (2) (b) (i) of the Motor Vehicle Act, 1988, (pre amended Act) the licence is effective for a period of 20 years from the date of issue of licence or reaching 50 years of age by the licensee and as the driver was 30 years old and licence was issued on 19.10.2004 and therefore, even in absence of renewal the driver was having a valid licence on the date of accident.

4. Mr. Dutta, learned Senior counsel for the appellant contends the following:
- I. The licence is a transport licence and in terms of the provision of Section 14 (2) (a) of MV Act, 1988 a transport licence can be granted and renewed for three years. As the licence was transport licence Section 14(2)(B)(i) of the MV Act, 1988 shall have no applicability in the present case. Accordingly, learned Tribunal has come to a wrong conclusion.
 - II. Mr. Dutta further contends that the last renewal and validity of the licence prior to the date of accident i.e. 26.05.2013 was on 17.12.2009 and it was valid till 16.12.2012. Therefore, on the date of accident the licence was not valid or having no effect of renewal. However, such licence was renewed on 06.10.2015 and was valid till 30.09.2018. Therefore, on the date of accident there was no valid

licence.

III. The other contention is that admittedly the licence is a transport licence and therefore, licence was issued for three years from the initial date of issuance i.e. 19.10.2004 and in subsequent renewal, the validity of the licence was given only for 3 years in terms of Section 14 (2) (a) of MV Act, 1988.

5. Per contra, Mr. Khan, learned counsel for the claimant submits as under:

- I. The claimant was having a driving license other than a license to drive transport vehicle and therefore, his case shall be covered under Section 14 (2)(b) of the Act, 1988. He further contends that in term of the aforesaid provision, the driving license issued under the Act to claimant shall be valid till he attains the age of 50 years or till the renewal of his license inasmuch as the appellant's date of birth is 30.05.1983 and on the date of accident on 19.10.2004, he did not attain the age of 50 years.
- II. Therefore, according to Mr. Khan by operation of law even if the driving license was made valid till 16.12.2012, the claimant had a valid driving license till 20 years from the issuance of license on 19.10.2004 in terms of the Section 14(2)(b)(i) of the Act, 1988.
- III. In addition to that, Mr. Khan contends that though last renewal was made on 06.10.2015, but the same was renewed with effect from its original date i.e. 19.10.2004, which is reflected in the Ext. 7 itself. Therefore, even in terms of Section 15 of the MV Act, 1988, it should be presumed that the licence was duly applied within a period of 30 days as mandated under Section 15(1) and therefore,

the renewal was made with effect from the date of its expiry i.e. 16.12.2012 and therefore, on the date of accident i.e. on 26.05.2013 the licence should be treated as a valid licence.

6. This court has given anxious consideration to the submissions advanced by the learned counsel for the parties. Since the only bone of contention relates to applicability of Sections 14 and Section 15, let this court look into the aforesaid two provisions of law under MV Act, 1988.
7. Section 14 of the MV Act, 1988 provides for currency of the licences to drive motor vehicles. Section 14 (1) of the MV Act, 1988 provides that the learner licence issued under the Act, subject to other provisions shall be effective for a period of 6 months for date of issue of licence.
8. Section 14 (2)(a) provides that licence to drive transport vehicle shall be effective for a period of 3 years, but licence to drive transport vehicle carrying good of dangerous and hazardous nature shall have a currency of one year and renewal thereof shall be subject to certain conditions, which is not necessary for the determination of the present lis.
9. For licences other than transport vehicle and learner licence, Section 14(2) (b) provides that a person obtaining a licence either originally or on renewal thereof and who has not attained 50 years on the date of issue, the renewal shall be effective for 20 years from date of such renewal or till the licensee attains the age of 50 years, whichever is earlier.
10. It is further provided that when the licensee attains the age of 50, licence can still be renewed on payment of fees but such renewal shall be effective for a period of 5 years from the date of such renewal.
11. Section 15 deals procedure of renewal of driving licence. Under such

provision the licencing authority is empowered to renew a driving licence with effect from date of its expiry subject to the condition that application for renewal of licence is made more within 30 days prior to its expiry otherwise the authority is empowered to renew the licence only from the date of renewal and not from the date of expiry.

12. Now, from the aforesaid provisions of law and the fact of the present case the following determinations can be made.
 - I. The licence issued to the claimant was a licence to drive transport vehicle, which also includes LMV and motor cycle and accordingly the licence was issued for 3 years as mandated under Section 14(2) (a) of MV Act. 1988.
 - II. The licence was also renewed for 3 years on two occasions firstly on 17.12.2009 till 16.12.2012 and second time, on 06.10.2015 for a period of 3 years i.e. till 30.09.2018.
 - III. There is no material on record to show that on 16.05.2013 i.e. on the date of accident the licence was a valid licence, though Mr. Khan has contended that it was renewed with effect from its original date of issue i.e. 19.10.2004.
 - IV. A perusal of the Ext. 7, which is relied on by the claimant to prove his driving licence clearly shows that it was issued on 19.10.2004, to which there is no quarrel. The licencing authority had renewed the licence, as is reflected in Ext. 7 itself on 06.10.2015 and the Ext. 7 also reflects it was made valid till 30.09.2018. There is nothing to show that licence was renewed with effect from the date of issue i.e. 19.10.2004. Such contention also fails as admittedly prior to the



accident, the licence was renewed on 06.10.2015 and was valid till 30.09.2018.

V. The licence was admittedly a transport licence. Admittedly it was last renewed prior to the accident on 07.12.2009 having validity up to 16.12.2012 and subsequently renewed on 06.10.2015 after the accident. Therefore, on the date of accident on 26.05.2013 the claimant was not having a valid driving licence inasmuch as the licence being a licence to drive transport vehicle Section 14(2)(b)(i) shall not be applicable to the licence in question.

VI. Therefore, this court is having no other alternative but to hold that the learned Tribunal has committed serious error of law by taking recourse to the Section 14 (2) (b) of the MV Act, 1988 inasmuch as Section 14(2)(b) relates to licences other than provided in Section 14 (2) (a) of MV Act, 1988 i.e. in exclusion to transport licence. Therefore, Section 14 (2) (b) shall not be applicable to the claimant.

13. Accordingly, the judgment and order dated 11.08.2016 passed in MAC Case No. 140/2013 by the learned Tribunal below is interfered with and set aside and the claim is dismissed.
14. Statutory deposit may be returned.
15. LCR be returned forthwith.

JUDGE

Comparing Assistant