

2026 LiveLaw (SC) 634

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

SANDEEP MEHTA; J., VIJAY BISHNOI; J.

CIVIL APPEAL NO. 20846 OF 2017; June 18, 2026

K. PRAKASHCHAND *versus* ORIENTAL INSURANCE CO. LTD.

Consumer Protection – Contract of Insurance – Privity of Contract – Third-Party Claim – Maintainability – Held that a contract of insurance is a personal contract strictly between the insurer and the insured - No third party can raise any claims under such a contract - Financier / Pledgee Claim – Failure to prove nature of agreement and surrender – The appellant/financier claimed that the insured had surrendered the vehicle to him, following which it was stolen from his custody - the appellant failed to produce documents proving the surrender, nor did he provide specific details of the theft (place, date, and time), which cast aspersions on his case - Even assuming the vehicle was surrendered, the financier cannot automatically be considered the owner of the vehicle - the insurance company cannot be compelled to indemnify a third-party financier when it was not a party to the contract/loan agreement between the financier and the insured, and had no notice of the same. [Paras 10-15]

Privity of Contract – Notice to Insurer – Essentiality - Since the insurance company was neither made a party to the agreement between the appellant and the insured, nor was a copy of the agreement supplied to it, the insurer cannot be called upon to make good the loss suffered by the appellant - A letter of subrogation issued unilaterally by the financier without the execution/participation of the insured person is legally invalid – held that the principle in Sundaram Finance Ltd. regarding ownership under a hire-purchase agreement can only be applied when the precise nature of the executed agreement is clear. In the present case, the nature of the agreement/endorsement (whether it was a "Hire-purchase", "Hypothecation", or "Lease") was not clearly specified. [Para 10, 11, 12]

For Appellant(s): Mr. T. V. S. Raghavendra Sreyas, AOR Ms. Gayatri Gulati, Adv.

For Respondent(s): Ms. Sakshi Mittal, AOR

ORDER

1. The present appeal is directed against the Order of the National Consumer Disputes Redressal Commission, New Delhi (hereinafter referred to as "National Commission") in Revision Petition No. 1928/2007 dated 12.06.2015 (hereinafter referred to as "impugned Order"), whereby the National Commission allowed the Revision Petition No. 1928/2007 filed by the Respondent-Insurance Company and set aside the concurrent findings of both the District Consumers' Disputes Redressal Forum at Mysore (hereinafter referred to as the "District Commission") and the Karnataka State Consumer Disputes Redressal Commission at Bangalore (hereinafter referred to as "State Commission"), holding that there is no privity of contract between the Respondent- Insurance Company and the Appellant herein.

2. The facts essential for the disposal of the present appeal are that the Appellant had financed the purchase(s) of the goods or vehicle of one Somashekhar (Respondent No. 2 before the National Commission/Insured Person). The said vehicle was covered under the comprehensive insurance policy issued by the Respondent- Insurance Company for the period from 08.02.2003 to 07.02.2004. Since Insured Person could not remit the monthly

instalment regularly to the Appellant on account of the loan availed by him and other financial problems, he surrendered the vehicle to the Appellant on 13.12.2003. As per the allegation, when the said vehicle was in the custody of Appellant, it was stolen. A complaint therefore was lodged with the local police on 15.12.2003 which was registered as Cr. No. 175/2003. The police on investigation having not traced the vehicle, filed 'C' report before the Local Magistrate. The Appellant then filed a claim with the Respondent- Insurance Company along with an undertaking to execute a letter of subrogation/undertaking for any claim which Insured Person may make in the future. However, the Respondent-Insurance Company repudiated the Appellant's claim.

3. Being aggrieved, the Appellant challenged the repudiation as deficiency in service and filed a complaint, bearing CD # 213/2005, before the District Commission. The said complaint was allowed, *vide* Order dated 30.11.2005, wherein it was held that the agreement between the Appellant and the Insured Person was a hypothecation agreement and not a hire purchase agreement and therefore in terms of IMT-7, the Appellant being a pledgee is an interested person in the insurance money. The Respondent- Insurance Company was directed to pay Rs. 5,27,850/- to the Appellant within two months.

4. Aggrieved by the order of the District Commission, the Respondent- Insurance Company challenged the same by filing an appeal, bearing Appeal No. 448/2006, before the State Commission. The said appeal came to be dismissed *vide* Order dated 29.03.2007, wherein the State Commission held that since the loss or damage to the vehicle could not be made good by repair or replacement, the pledgee (the Appellant) is entitled to get insurance money otherwise payable to the Insured Person in terms of IMT-7. Respondent-Insurance Company, thereafter, filed the Revision Petition before the National Commission, whereby the National Commission allowed the Petition, *vide* Impugned Order.

5. In the Impugned Order, the National Commission held that even though there is an endorsement on the policy regarding the Hire Purchase/Hypothecation/Lease of the vehicle in favour of the Appellant, it is not under dispute that the Respondent- Insurance Company is not a party to the terms and conditions of the said Hire Purchase Agreement between the Appellant and the Insured Person. The National Commission further observed that no copy of the said agreement was placed on record and therefore, it held that there was no privity of contract between the Appellant and the Respondent Insurance Company.

6. Being aggrieved by the Impugned Order, the Appellant filed the present appeal. During the course of hearing of the present appeal, *vide* Order dated 08.04.2016, the name of the Respondent No. 2 (Insured Person) was allowed to be deleted from the array of parties at the risk of the Appellant.

7. The learned counsel for the Appellant has argued that the agreement was a simple loan transaction where the good in question was under hypothecation. The vehicle was insured with Respondent Insurance Company and in the policy papers there was an endorsement of agreement. The learned counsel further relied on the judgment of this Court in *Sundaram Finance Ltd. vs. State of Kerala and Another*, reported in (1966) 2 SCR 828, wherein it was held that in a hire-purchase agreement, a dealer or the financier continued to be the owner till the terms of the agreement were fully complied with by the customer and the option to purchase the same was exercised by him. Therefore, in the present case, he argued that the spirit of the transaction was the same between Appellant

and Respondent but with a small variation that the documents showed the Insured Person as the owner, however actual ownership was with the Appellant till the loan was repaid. He contended that even if the transaction could not be put in the four corners of hire-purchase agreement, then also it was more like a pledge which the Insured Person made on the vehicle while taking the loan from the Appellant, thus covering the case under IMT 7 of the policy. The learned counsel for the appellant further contended that once the hire-purchase agreement was endorsed on the policy, there was no occasion for Respondent-Insurance Company to plead privity as it was squarely covered under IMT-5 of the policy.

8. *Per Contra*, learned counsel for the Respondents argued that the Appellant is not the registered owner of the vehicle and therefore not liable to settle the claim made by the Appellant. The Appellant cannot execute a letter of undertaking and subrogation for and on behalf of the Insured Person. It was contended that there is no privity of contract between the Appellant and the Respondent- Insurance Company and therefore no question of deficiency of service. It was further contended that the surrender of the vehicle to the Appellant does not make the Appellant owner of the vehicle. The insurance being a personal contract between the insurer and insured, no claim from any other person can be entertained.

9. We have heard the rival submissions made at the bar and perused the material on record.

10. It has been rightly held by the National Commission that there was no privity of contract between the Appellant and the Insurance Company as the agreement was entered solely between the Appellant and the Insured Person and the Insurance Company was not made a party to the said agreement. Moreover, even after the execution of the said agreement, no copy was supplied upon the Insurance Company. Since, the Insurance Company did not have any notice of any agreement taking place in between the parties, it cannot be called upon to make good the loss of the Appellant.

11. In addition to that, the Insured Person had been absconding and no communication of any such agreement in between the Appellant and the Insured Person was made to the Insurance Company. Furthermore, the letter of subrogation issued by the Appellant herein to the Insurance Company could not be executed because the said letter was issued by the Appellant herein and not the Insured Person himself.

12. The learned counsel for the Appellant relied on the Judgment of this Court in Sundaram Finance Ltd. (*supra*), however, in our opinion the said case can only be applied when the nature of agreement executed in between the disputing parties is clear. In the present case, the nature of the agreement/endorsement as entered in between the Appellant and the Insured Person was not clearly specified whether it was a “*Hire-purchase*”, “*Hypothecation*” or a “*lease*” agreement.

13. It is also pertinent to note here that the Appellant has not provided any document to the effect of showing proof that the Insured Person had surrendered the vehicle to the Appellant. The Appellant has also failed to provide the details regarding the alleged theft like the place, date and time as to when the alleged incident took place. The said conduct of the Appellant also cast aspersions on his own case.

14. It is a settled position of law that a contract of insurance is a personal contract only between the insured and the insurance company and no third party can raise any claims pursuant to the said contract. In the present case also, even if we assume that the Insured Person had surrendered the vehicle to the Appellant, then also the fact remains that the

Appellant cannot be considered as the owner of the vehicle and hence, the Insurance Company could not be forced to indemnify the Appellant herein.

15. In light of the findings as stated herein above, this Court finds that the National Commission has rightly observed that the Respondent-Insurance Company cannot be forced to accept the claim of the Appellant in light of the fact that the Respondent-Insurance Company is not a party to the contract between the Appellant and the Insured Person.

16. We find that the National Commission was correct in holding that there is no privity of contract between the Appellant and the Respondent- Insurance Company and therefore, we find no good reasons to interfere with the impugned order.

17. Resultantly, the Civil Appeal No. 20846 of 2017 is dismissed.

Pending application(s), if any, also stand disposed of.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)