

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**REVISION PETITION NO. 958 OF 2020**

(Against the Order dated 05/02/2020 in Appeal No. 613/2018 of the State Commission  
Maharashtra)

1. NATIONAL INSURANCE COMPANY LTD. ....Petitioner(s)

Versus

1. GIRISH & 3 ORS.

2. ICICI BANK

.....Respondent(s)

**REVISION PETITION NO. 482 OF 2022**

(Against the Order dated 05/02/2020 in Appeal No. 613/2018 of the State Commission  
Maharashtra)

1. GIRISH .....Petitioner(s)

Versus

1. MANAGER, NATIONAL INSURANCE COMPANY LTD. &  
3 ORS.

NATIONAL LEGAL VERTICLE, 2 E/9, JHANDEWALAN  
EXTENSION, NEW DELHI- 110055.

2. THE MANAGER,  
ICICI BANK LTD. BRANCH PUNE, MAHARASHTRA

3. THE MANAGER  
ICICI BANK LTD. BRANCH SOLAPUR, MAHARASHTRA.

4. THE MANAGER  
ICICI BANK LTD. BRANCH OSMANABAD,  
MAHARASHTRA.

.....Respondent(s)

**BEFORE:**

**HON'BLE MR. SUBHASH CHANDRA, PRESIDING MEMBER**

FOR THE PETITIONER : FOR THE NATIONAL INSURANCE MR ANSHUL KUMAR,  
PROXY COUNSEL (WITH  
AUTHORITY LETTER) FOR MR ABHISHEK KUMAR,  
ADVOCATE

FOR THE RESPONDENT : FOR MR GIRISH MR VARUN V SOLSHE, ADVOCATE  
FOR ICICI BANK 2 TO 4 MR PAWANSHREE AGRAWAL,  
ADVOCATE WITH  
MR KEWAL VERMA, ADVOCATE

**Dated : 07 July 2023**

**ORDER**

1. This revision petition under section 58 (b) of the Consumer Protection Act, 2019 (in short, the 'Act') assails the order dated 05.02.2020 in First Appeal No. 613 of 2018 of the State Consumer Disputes Redressal Commission, Maharashtra, Circuit Bench at Aurangabad (in short, the 'State Commission') arising out of the order dated 19.11.2018 of the District Consumer Disputes Redressal Forum, Latur (in short, the 'District Forum') in Consumer Complaint no. 112 of 2018. This order will also dispose of revision petition no. 482 of 2022.
2. The facts, in brief, according to the revision petitioner, are that it issued a vehicle insurance policy to the petitioner for a Honda City car no. MH 25 P 8010 for the period 02.02.2016 to 01.02.2017. On 04.12.2016 the car met with an accident near Terkheda village, Kallam taluka, District Osmanabad while being driven by one Anil Manjule. An FIR was registered at Police Station, Yermala. On 25.01.2017, after 51 days, the respondent informed the petitioner of the accident and submitted a claim form on 01.02.2017. The spot surveyor submitted his report on 04.02.2017 and thereafter Surveyor & Loss Assessor Arun T Kulkarni submitted his report on 29.03.2017. The claim was repudiated by the petitioner vide letter dated 04.04.2018 on the grounds that the driver did not possess a valid driving licence for a Light Motor Vehicle (LMV) at the time of the accident and the claim was submitted within the stipulated time and claims guidelines. The respondent had approached the District Forum in consumer complaint no. 112 of 2018 which was dismissed on 30.11.2018 on the ground that the driver did not possess a valid driving license at the time of the accident. Thereafter the respondent filed an appeal before the State Commission which was disposed of on contest vide order dated 05.02.2020 setting aside the order of the District Forum and upholding the appeal. This order is impugned before this Commission.
3. The plea of the respondent complainant before the District Forum was to allow the claim of Rs 14,39,329/- with 18% interest from 25.01.2017, the date of filing the claim, repayment of loan for the car by respondent 4 to respondents 1 to 3 along with Rs 1,00,000/- for mental agony and Rs 10,000/- as costs. The order of the District Forum held that:

... In the present case driver Manjule did not possess the LMV and the transport license it was expired on 28.03.2014. Accident took place on 21.12.2016. The NOC issued by the RTO Beed is suspicious. It is not observed that the respondent no. 4 had wrongly rejected the claim. ...

Complainant failed to prove the complaint. It deserve to be dismissed. Hence the Forum answer issue no 4 in that respect and pass the following order.

#### Order

The complaint of the complainant is dismissed.

4. The order of the State Commission setting aside the District Forum's order held as below:

We find that the permit of the transport vehicle had period mentioned as 29.03.2011 to 21.03.2014, however, for non-transport vehicle it was mentioned as 05.10.2004 to

04.10.2024. The opponents on the ground that the driver of the motor vehicle did not possess the valid license to drive the transport vehicle the insurer is not liable to pay. Our attention is invited to the fact that on 3<sup>rd</sup> February, 2017 making reference to the application the Dy. Regional Transport Officer from Osmanabad had clarified that vehicle class which was driven in the present case and which met with an accident from LMV (Light Motor Vehicle). According to learned advocate for the appellant the driving license clearly mention validity of the motor driving license for non-transport vehicle during the period 05.04.2010 to 04.12.2024 though for the transport vehicle license for expiry date of 28.03.2014. Our attention is invited to ruling in *M S Bhati vs National Insurance Co. Ltd.*, reported as 2019 (2) CPJ Page 79, whereby Hon'ble Supreme Court of India in para 14 making reference to earlier ruling to *Mukund Dewangan vs Oriental Insurance Co. Ltd.*, (2017) 14 SCC – 663, clarified that procedure to obtain motor driving license for transport vehicle of class of light motor vehicle continued to be same as it was and has not been changed and there is no requirement to obtain separate endorsement to drive transport vehicle if a driver is holding valid motor driving license to drive light motor vehicle he can drive transport vehicle of such class without any separate endorsement to that effect. Thus, it is submitted that, the driver was in possession of valid motor driving license for light motor vehicle and therefore, the insurer was liable to pay the amount of IDV of Rs.10,16,310/- which was also referred to by the surveyor Arun T Kulkarni from Solapur though he has mentioned about salvage of the entire vehicle valued at Rs.3,60,000/-. We informed that the insured – complainant did not inform the insurance company though this is disputed by the learned advocate for the complainant. We find that in surveyor's report he had mentioned Insurance Declared Value as well as highest offer of salvage in the sum of Rs.3,60,000/- when vehicle which met with the accident. The motor vehicle continued in custody of the complainant presumably salvage of the vehicle for which highest offer was sum of Rs.3,60,000/- must have been or ought to have been availed on by the complainant in the sum of Rs.3,60,000/-. That being so, we are of the view accepting the surveyor's report that the insurer (opponent no.4) is liable to pay sum of Rs.6,55,310/- as reported by the surveyor we find just ground to accept the surveyors report as it is without deducting the excess charge of Rs.1000/- as mentioned in it. That being so, we allow this appeal partly as under:-

The appeal is partly allowed. The opponent no.4 – Insurance Company Limited liable to pay sum of Rs.6,55,310/- within three months from the date of receipt of this order, failing which the amount shall carry interest @ 9% per annum until realization. We also award compensation for mental and physical harassment of the complainant in the sum of Rs.25,000/- and litigation cost in the sum of Rs.5000/-. Entire amounts due shall be paid within three months from the date of receipt of this order, failing which interest @ 9% per annum shall be paid from the date of this order on the outgoings due. Since, amount is payable to the opposite party who financed the vehicle as prayed for by the complainant, the amount payable to be complainant shall be credited in favour of the complainant in the loan account of the finance-opponent nos. 1 to 3. Provided further that if surplus amount paid to the financier same shall be refunded to be complainant.

5. Heard the learned counsel for both the parties and perused the records carefully. In view of the *Suo Moto* WP (Civil) No. 3/2020 of the Hon'ble Supreme Court dated 23.03.2020 as amended by orders dated 06.05.2020 and 10.07.2020, the delay in filing this Revision Petition on account of the Covid 19 pandemic is condoned. The moot issue in the instant case is whether the driver of the vehicle was in possession of a valid driving licence at the time of the accident and whether claim under the insurance policy is admissible.

6. The terms and conditions of the policy in question stipulate that:

*Limitations as to use:*

*The Policy covers use of the vehicle....*

*Drivers Clause: Any person including insured provided that a person driving holds an effective driving licence at the time of the accident and is not disqualified from holding or obtaining such a licence. Provided also ....*

7. The learned counsel for the petitioner argued that the driver of the vehicle did not possess a valid driving licence on the date of the accident since the driving licence was not endorsed for Light Motor Vehicle-Non Transport (LMV-NT) and the licence for Light Motor Vehicle-Commercial had expired. According to the petitioner, the insured was in breach of the Drivers Clause in the policy as the person driving the car at the time of accident had a Driving Licence (DL) that was not endorsed for a Light Motor Vehicle-Transport (LMV-TR). It is submitted that the driver's licence was endorsed for LMV-TR for the period 05.10.2004 to 28.03.2014 and for MCWG (Motor Cycle with Gear) from 04.10.2024. It is therefore contended that the validity of the licence for an LMV was not available as on 04.12.2016, the date of accident. It is contended that the State Commission erred in holding that the judgment in ***M.S. Bhati Vs. National Insurance Co. Ltd.*** 2019 (2) CPJ which relied upon the judgment of the Hon'ble Supreme Court in ***Mukund Dewangan Vs. Oriental Insurance Co. Ltd.*** (2017) 14 SCC 663 as the present case was distinguishable from the present case. It is argued that the endorsement on the driver's licence was valid only for MCWG-NT and not for LMV-TR and that the respondent had wrongly stated before the State Commission that the DL was valid for LMV-NT till 04.10.2024. It is stated that it was evident from the extract of the license that there was no endorsement for LMV-NT and validity only for MCWG was till 04.10.2024. He placed reliance on the judgment of the Hon'ble Supreme Court in ***Beli Ram Vs. Rajinder Kumar & Anr.*** Civil Appeal Nos. 7220-7221 (2011) dated 23.09.2020 wherein it was held that "*the applicant has permitted to let the first respondent driver drive the truck with an expired licence for almost three (3) years. It is clearly a case of lack of reasonable care to see that the employee gets his licence renewed, further, if the original licence is verified, certainly the employer would know when the licence expires ..... The appellant has to, thus, bear responsibility and consequent liability of permitting the driver to drive with an expired licence over a period of three (3) years*". It was submitted that validity till 04.10.2023 as mentioned by respondent no.1 was towards "non-transport" and that "non-transport" in the extract of driving licence pertains to MCWG-NT only.

8. On the other hand, the counsel for the respondent would have us believe that the DL under was valid under section 2(21) of the MV Act, 1988 since the definition of a 'transport vehicle' includes a goods carrier under section 2(47) of the said Act. Reliance was placed on the Notification No. RT-11021/44/2017-MVL dated 16.04.2018 of the Ministry of Road Transport and Highways (MORTH) which, following the judgment of the Hon'ble Supreme Court in ***Mukund Dewangan Vs. Oriental Insurance Co. Ltd.*** in Civil Appeal No. 5826 of 2011 dated 03.07.2017 had notified that:

3. *In view of the legal position as settled by the Hon'ble Supreme Court in the above judgement, the requirement under the Motor Vehicles Act, 1988 to obtain the transport licence would arise in case of medium/ heavy goods and passenger vehicles only. No other vehicle will require any separate endorsement, even if they are used for commercial purposes. The exemption from the requirement to obtain the endorsement for commercial vehicles would apply to following vehicles:*

- (i) *motorcycle without gear*
- (ii) *motorcycle with gear*
- (iii) *light motor vehicle (goods/passenger)*
- (iv) *e-rickshaw/e-cart*

9. It is argued by the respondent that it was apparent from the extract of the driving licence that the endorsement was valid for LMV-NT for the period 05.10.2004 till 04.10.2024 and Transport License (TR) for the period 29.03.2011 to 28.03.2014. It is argued that the Driving License for LMV-NT covered the car insured and therefore the claim is valid. According to the respondent, the impugned order of the State Commission has held correctly and does not deserve to be interfered with.

10. The petitioner's case is that repudiation of the claim by the petitioner was, *inter alia*, on the grounds of non-possession of a valid driving licence and that the District Commission had rightly set aside the complaint against the repudiation. The State Commission has held that the District Forum was in error in concluding that the driver was not in possession of a driving licence which was a mandatory requirement under the policy. The State Commission's order has, however, held that repudiation of the complaint on the grounds of non-possession of a driving licence was incorrect. From the record, it is evident that the driver of the vehicle on the date of the accident possessed a driving licence for 'Non Transport' which was valid from 5.10.24 till 04.10.24. However, the Transport Licence had expired on 28.3.2014. It is manifest that the driver was in possession of a driving licence for a 'Non Transport' class of vehicle till 04.10.24. The petitioner's argument is that this pertained to the MCWG endorsement based upon the category indicated against it based on the extract of the DL dated 19,04.2018 provided by the Deputy Regional Office, Motor Vehicle Department, Government of Maharashtra. The

conclusion of the State Commission is based on the law laid down vide the Hon'ble Supreme Court's judgment in ***Mukund Dewangan*** (supra) that there was no requirement to obtain separate endorsement on the DL for a LMV if the driver was holding a valid DL for a LMV. However, from the extract of the DL on record, the validity of the LMV-TR was 29.03.2011 to 28.03.2014 as below:

Validities :

Non-Transport	05.10.2004 to 04.10.2024	Transport	29.03.2011 to 28.03.2014
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**11.** In view of the foregoing, it is evident that the State Commission's interpretation of the order in ***Mukund Dewangan*** (supra) is erroneous in the face of the facts. The respondent has not been able to adduce any evidence to prove that the endorsement pertaining to LMV-TR's validity between 29.03.2011 to 28.03.2014 had changed before the date of the accident, i.e. 04.12.2016. Notification No. RT-11021/44/2017-MVL dated 16.04.2018 of the MORTH relied upon by the respondent is of no help to him in view of the fact that there was no endorsement for a LMV on the licence.

**12.** In view of the above, it is manifest that the impugned order of the State Commission is perverse. Accordingly the revision petition is allowed and the order dated 05.02.2020 of the State Commission is set aside. There shall be no order as to costs.

**13.** This order also disposes of RP No. 482 of 2022 filed by Girish son on Balasaheb Koregaonkar against the order of the State Commission dated 05.02.2020 in the above terms.

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**SUBHASH CHANDRA**  
**PRESIDING MEMBER**