

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20901 of 2012

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M/S Auro Sundaram International Pvt. Ltd. having its Registered Office at Raipur Industrial Ara, Gagalheri Road, Bhagwanpur- 247661(Roorkee) District Haridwar (Uttarakhand) and factory at Bihar Industrial Ara Development Authority, Forbesganj- 854318, District- Araria, through its Director, Ashok Kumar Choudhary @ Ashok Choudhary S/o Shri Shri Shambhu Nath Coudhary, resident of Purani Bazar, Ward No. 13, P.O+ PS- Town & District- Madhipura.

.... Petitioner/s

Versus

1. The Oriental Insurance Company Ltd. (A Govt. of India Undertaking) having its Registered Office at A-25/27, Oriental House, Asaf Ali Road, New Delhi through its Chairman- cum- Managing Director.
2. The Chief Regional Manager, Oriental Insurance Company Limited, Regional Office, Pirmohani, Rajendra Path, Patna.
3. The Manager In-charge, Claim Center (Service Center), Patna, Regional Office, Oriental Insurance Company Limited, Jaitpur, Kothi, Bank Road, Patna.
4. The Branch Manager, Oriental Insurance Company Limited, CBO VII, Laxmi Niwas, Hajiganj, Patna City, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Adv.
For the Respondent/s : Mr. Sanjay Singh

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-12-2016

Heard learned counsel for the petitioner, State and the Insurance Company.

In this case, the petitioner is claiming the Insurance amount as the vehicle, which was insured for GCCB- Public Carriers other than Three Wheelers Package Policy Zone B, was damaged by the villagers in the premises of the factory.

As per the case of the petitioner, a 'Bolero Camper Gold' vehicle was purchased from Mahindra Dealer, Priyadarshi Motors



Private Limited Saguna More, Bailey Road, vide Invoice dated 06.07.2010 and time to time the vehicle was insured, it was covered as a commercial vehicle and was running.

An F.I.R. was lodged by one Ashok Kumar Choudhary, Director of M/S Auro Sundaram International Private Limited, making allegation that some villagers forcibly entered into the premises of the factory by breaking the wall and made attack whereupon the staff and Police personnel in order to save their life, fled away from there and the mob ransacked the whole premises which caused loss to different properties of the factory in which one of the damaged property is the aforesaid vehicle.

Admittedly, the accident had taken place within the premises of the factory. Section 66 of the Motor Vehicles Act, 1988 prohibits the use of the vehicle in any public place. Admittedly the vehicle was damaged by the villagers as the mob ransacked the whole premises on account of certain dispute with the occupier of the factory and the Insurance Company is repudiating the claim of the petitioner that the petitioner was not holding the permit as without any substance and the decision, the Insurance Company is misconceived, misdirected himself holding vehicle had no road permit. The vehicle would be required to have a permit when it goes to the public road, as Section 66 of the Motor Vehicles Act also postulates the requirement



of permit for commercial vehicle when the same is brought to public road. When the vehicle was standing inside the private premises, the question of any permit does not arise.

Admittedly in the present case, the vehicle had not been damaged at the public place or public road and the vehicle has been damaged by local people while the vehicle was standing in the premises of the factory so the question of repudiation on the ground of having not a permit, does not satisfy the test of fairness, rather illegal accordingly, this Court finds that the ground, that has been assigned for repudiation by letter dated 9th July 2012 and letter dated 11th March 2013 are not sustainable and the same are hereby set aside. The Insurance Company is directed to compute the amount of entitlement and make payment of the same.

With the above observation/direction, this petition is allowed.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
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