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INSURANCE

INSIGHT

Recovery Rights when due diligence for verifying the driving license was duly
conducted by DTC



ANIMESH SINHA & PARTNERS
ADVOCATES & SOLICITORS

Recovery Rights when due diligence for verifying the driving license was duly conducted by DTC

The Hon'ble High Court of Delhi in the case of DTC v. United India Insurance Co. Ltd., 2024 SCC OnLine Del 8327 has held that in case where the driver of a DTC bus was found to be driving without valid driving license.

In the present case, the Learned MACT has granted the insurance company recovery rights against the appellant. The appellant (DTC) therefore presented the appeal before the Learned High Court stating that the verification of the Driving License of the driver at the time of his appointment was undertaken and the report was issued by the Agra Transport Authority that the Driving License was genuine.

Further, the Appellant contended that there was no willful breach of any condition of the Policy on the part of the Appellant. It had taken due care and caution expected of an employer in verifying the genuineness of the Driving License at the time of appointment. The appellant further stated that even the driving Skill Test had been conducted before he was appointed as the driver. The Hon'ble High Court relied upon the case of New India Assurance Co. Ltd. v. Sanjay Kumar, ILR (2007) 2 Del 733, wherein it was held that although the onus is on the Insurer (Respondent No. 1 in the present case) to prove that there was breach of condition of policy, but once the record for the Licensing Authority is summoned to prove that the driver did not possess a valid driving license, the onus would shift on the insured (the owner of the vehicle) who must then step into the witness box and prove the circumstances under which he acted and handed over the vehicle to the driver.

The Hon'ble High Court further relied on the case of United India Insurance Co. Ltd. v. Anil Kumar, 2019 SCC OnLine Del 12181 in which the principles laid down in the case of Pepsu Road Transport Corporation v. National Insurance Company Civil Appeal No. 8276/2009 were reiterated to state that if a vehicle owner finds the driving license valid on face value and has satisfactorily tested the driver's skills before employment, they would be covered for liability against Claims.

therefore, in the light of the same, the Hon'ble High Court held that the appellant had taken appropriate steps for verifying the driver's credentials and has exercised due care, therefore in the light of the same, the recovery rights granted to the insurance company could not have been granted, thereby allowing the appeal.



D106 SF Defence Colony
New Delhi - 110024



asp@sinhapartners.com
www.sinhapartners.com



+91 11 41 046 911
+91 11 40 536 008