

Court No. - 6

Case :- WRIT - C No. - 36404 of 2018

Petitioner :- Oriental Insurance Company Ltd. Thru Senior Divisional Manag

Respondent :- Smt. Urmila And 4 Ors.

Counsel for Petitioner :- Ashish Kumar Srivastava

Counsel for Respondent :- C.S.C.,Ajeet Kumar,Rinku Verma

Hon'ble Alok Mathur,J.

1. Heard learned counsel for the petitioner and learned standing counsel for the State.

2. The present writ petition has been preferred by the petitioner for quashing of the order dated 31.08.2018 passed by the Permanent Lok Adalat, Lucknow in P.L.A. Case No. 178 of 2016 (Smt. Urmila and others Vs. Oriental Insurance Company Limited and others) by which the Permanent Lok Adalat has awarded a sum of Rs. 2,50,000/- with 9% simple interest along with Rs. 5000/- litigation expenses against the petitioner-insurance company.

3. Learned counsel for the petitioner-insurance company has submitted that the judgment passed by the Permanent Lok Adalat is against Clause 4 of the Agreement dated 19.11.2009 entered into between the Government of Uttar Pradesh and the petitioner-insurance company.

4. It is further submitted that as per Clause 4 of the Agreement, the documents mentioned in the said clause are required to be produced to the petitioner-insurance company for claim process. Learned counsel for the petitioner-Insurance Company has submitted that the claims of the respondents were repudiated as they had provided the Khatauni of category Class 2, under which the lessee has no right to transfer the land. The petitioner-insurance company was under impression that as per clause 4, the claim of those persons is to be given who have computerized khatauni with transferrable rights. The claim was not repudiated with any bad intention or just to deny the claim of the respondents.

5. The second submission raised by the learned counsel for the petitioner-Insurance Company is that imposition of maximum penalty as provided under Clause 22(b) of the Agreement is illegal and exorbitant as there was no fault on the part of

petitioner-Insurance Company while rejecting claim of the claimants. It is further submitted that in almost identical matters wherein also the judgments of the Permanent Lok Adalat were under challenge pertaining to dispute for rejection of claims of the claimants under the Agreement dated 19.11.2009 have been decided by this Court in Writ Petition Nos. 20736 of (M/S) of 2018 (The Oriental Insurance Company Limited Thru. Divisional Mgr. Vs. Chote Singh & Ors.) and 5324 of (M/S) 2015 (Oriental Insurance Company Ltd. Thru its Divisional Manager Vs. Smt. Ramkali @ Rajkumari and others) wherein this Court has quantified and reduced the penalty from Rs. 1,50,000/- to Rs. 50,000/- and Rs. 75,000/- respectively. The relevant portion of the judgment passed in the case of **Chote Singh (supra)** is reproduced hereunder for ready reference:-

"Insofar as the quantum of penalty questioned in the present petition is concerned, it is true that the imposition of penalty in a situation of denial of claim is Rs. One Lakh Fifty Thousand but the present case in a situation of repudiation letter dated 7.4.2011 not being final, can only be treated to be a case of delayed payment, therefore, the quantification of penalty to the tune of Rs. One Lakh Fifty Thousand is clearly illegal and arbitrary and beyond the scope of clause 22(b) of the agreement. This Court would also note that every Permanent Lok Adalat is under a bounden duty to undertake the process of conciliation before advancing to adjudicate a claim on merit. This aspect of the matter has also not been dealt with by the Permanent Lok Adalat in a manner prescribed under law, therefore, the imposition of maximum penalty, in my humble view, is exorbitant.

This Court having regard to the facts and circumstances of the present case as well as the resultant delay would quantify the amount of penalty at Rs. Fifty Thousand and to this extent, the impugned award deserves to be modified.

The amount of penalty modified to the aforesaid extent is thus affirmed. The award is accordingly modified. The petitioner is directed to discharge the liability not later than a period of one month from today."

6. The relevant part of the judgment passed in the case of **Smt. Ramkali @ Rajkumari and others (supra)** is reproduced hereunder for ready reference:-

"7. However, considering the fact that the present case is almost identical to that one of the subject matter of judgement dated 13.8.2018 passed in Writ Petition No.20736 (MS) of 2018, interest of justice would meet if the present writ petition

is also disposed of with direction to the petitioner-Insurance Company to pay the insured amount of Rs.1 Lakh with interest @9% per annum from the date of the order passed by the Permanent Lok Adalat. The amount of penalty is reduced from Rs.1,50,000/- to Rs.75,000/- to be deposited within a period of six weeks from today. The amount of Rs.1 Lakh along with interest @9% per annum from the date of the order of the Permanent Lok Adalat as well as the amount of penalty of Rs.75,000/- to be deposited before the Permanent Lok Adalat, shall be released in favour of the opposite parties forthwith after due verification of their identities. Any amount deposited in pursuance of the interim order dated 11.9.2015, shall be adjusted against the total amount to be paid by the petitioner-Insurance company in pursuance of the order passed today."

7. At this stage, learned counsel for the petitioner-Insurance Company has confined his prayer to the extent that penalty imposed under Clause 22(b) of the agreement may be reduced as it has already been reduced in other identical matters.

8. Learned counsel for the respondents has no objection to the prayer made by learned counsel for the petitioner-Insurance Company.

9. In view of the discussions made above, it is found that there is no illegality and perversity in the impugned judgment passed by the Permanent Lok Adalat as far as accepting the insurance claims of the private respondents and hence, no interference is called for in the judgment impugned.

10. The position with regard to the applicability of Clause 22(b) of the Agreement which emerges out is that though there is no requirement under the agreement to repudiate the claim of a person having Khatauni with non-transferrable right but the action was not mala fide or in bad faith. As per Clause 4 of the agreement, the computerized khatauni was required for the purpose of the claim and hence it cannot be said that rejection of claim on the said ground is wholly illegal. As the judgment relied by the learned counsel for the petitioner with regard to the quantifying the penalty by this Court in Writ Petition Nos. 20736 of (M/S) 2018 and 5324 of (M/S) 2015, this Court has held that the penalty imposed as per Clause 22(b) of the Agreement is exorbitant and quantified the amount of penalty as Rs. 50,000/- and 75,000/- respectively.

11. This Court having regard to the facts and circumstances of the case as well as the resultant delay would quantify the amount of penalty at Rs. 75,000/- and to this extent, the impugned judgment is modified. The amount of Rs.1 Lakh

along with interest @9% per annum from the date of the order of the Permanent Lok Adalat as well as the amount of penalty of Rs.75,000/- to be deposited before the Permanent Lok Adalat within a period of six weeks and shall be released in favour of the opposite parties forthwith after due verification of their identities. If any amount was deposited earlier that shall be adjusted against the total amount to be paid by the petitioner-Insurance company in pursuance of the order passed today.

12. For the foregoing reasons, as mentioned above, the petition is partly allowed in so far, it relates to reduction of amount of penalty imposed under Clause 22(b) of the agreement only.

13. The petition is therefore, disposed of as partly allowed in the manner indicated above.

14. At this stage, Shri Abhishek Kumar Srivastava, learned counsel for the petitioner has informed this Court that in compliance of the order of this Court dated 17.12.2018, a sum of Rs. 1,00,000/- (One Lakh only) has already been deposited in the High Court. The original tender thereof is on record.

15. Shri Abhishek Kumar Srivastava, learned counsel for the petitioner requests that the said amount alongwith interest accrued thereon, if any, during the period lapsed may be transferred to the Permanent Lok Adalat, Lucknow in P.L.A. Case No. 178 of 2016 (Smt. Urmila and others Vs. Oriental Insurance Company Limited and others).

16. Senior Registrar of this Court is directed to transfer the aforesaid amount along with interest accrued thereon, if any, to the Permanent Lok Adalat, Lucknow in P.L.A. Case No. 178 of 2016 (Smt. Urmila and others Vs. Oriental Insurance Company Limited and others) within a period of two weeks from today.

(Alok Mathur, J.)

Order Date :- 23.2.2024

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