

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 879 of 2014**

Branch Manager, National Insurance Co. Ltd., Branch No.II, 2nd Floor,
Dubey Complex, G.E. Road, Near Basant Talkies, Power House,
Bhilai, tahsil & District Durg, C.G.

---- **Petitioner****Versus**

1. Donald Kulbhushan Bora S/o Baltar Bara, aged about 29 years, R/o 539, Harinagar, Durg, Tahsil & District Durg, C.G.
2. Public Utility Permanent Lok Adalat, Durg, C.G.

---- **Respondents**

For Petitioner	:	Shri Raj Awasthi, Advocate.
For the Respondent	:	Shri A.C. Sahu, Advocate.

Order On Board**3/11/2015**

1. Since merely a question of law is involved in this writ petition, with the consent of the parties, the matter is heard finally.
2. By this petition under Article 227 of the Constitution of India, the Petitioner has challenged the legality and propriety of the order dated 6.9.2014 passed by the Public Utility Permanent Lok Adalat, Durg, Chhattisgarh (hereinafter called "the Court below") in Case No. 5 of 2013, whereby and whereunder the Court below allowed the application filed under Section 22A(v) of the Legal Services Authorities Act, 1987 (for short 'Act of 1987') for compensation and passed an award in favour of the claimant/ Respondent No.1 and against the present Petitioner amounting to Rs.3,82,000/- alongwith interest and cost of the litigation.
3. The facts in brief required for disposal of the instant writ petition are that the Claimant/ Respondent No.1 filed an application under Section 22A (v) of the Act of 1987 claiming compensation of Rs.4,50,000/- as his vehicle

met with an accident and damaged. Since there was no compromise or settlement of the issues between the parties, the matter was disposed of on its merit by allowing the application as aforementioned. Hence, the present petition by the insurer of the vehicle.

4. On behalf of the Petitioner, it is submitted that as per provisions of Section 20 sub-section (6) of the Act of 1987 when there is no occasion for compromise or settlement between the parties, the Lok Adalat is required to advise the parties to seek remedy in the Court as the Lok Adalat is barred by jurisdiction to dispose of the matter on its merit. Learned Counsel further submitted that since the Court below passed the impugned award beyond its jurisdiction, the award is a nullity and deserves to be set aside.

5. Learned counsel for the Petitioner placed reliance on a decision of this Court dated 31.1.2014 in Writ Petition (227) No. 843 of 2009 (Branch Manager, NIC vs. Public Utility Permanent Lok Adalat) relying on 2012 (1) TAC page 120 (Chhattisgarh) Bajaj Allianz General Insurance Company Limited versus Dasru Patel and Others, in which it was held that the permanent Lok Adalat does not have jurisdiction to adjudicate the dispute arising out of the claim case and such dispute can be adjudicated only by the Motor Accident Claims Tribunal constituted under the law. Learned counsel for the Petitioner lastly submitted that as the impugned award is beyond jurisdiction, the same may be set aside.

6. On the other hand, Learned counsel for Respondent No.1 submitted that as per provisions of Section 22C (8) of the Act of 1987 the permanent Lok Adalat disposed of the dispute and the same was well within its jurisdiction to dispose the matter on its merit.

7. For the purposes of appreciation of merits of the instant writ petition, I have considered the arguments advanced by Learned counsel for respective parties and also the perused the material available on record and the provisions of law.

8. On due consideration, looking to the provisions of Section 20 sub-section (6) of the Act, 1987 if there is no possibility for settlement or compromise between the parties then the Lok Adalat is required to advice the parties to seek remedy in a Court. So far as Section 22C(8) of the Act 1987 is concerned, the same is applicable for the pre-litigation conciliation and settlement. The instant matter was not covered by the relevant Chapter and also after considering the case law cited above, the Court below has no jurisdiction to dispose of the matter on its merit. The Lok Adalat can only dispose of those matters in which the compromise/ settlement between the parties is possible under sound principles of law.

9. The case law cited above is applicable in the present case. In view of this, the Court below has acted beyond its jurisdiction and committed illegality, which requires interference.

10. Consequently, the instant WP(227) filed on behalf of the Petitioner is hereby allowed. The impugned award dated 6.9.2014, passed by the Public Utility Permanent Lok Adalat, Durg in case No. 5 of 2013 is set aside. If any amount is deposited by the Petitioner before the Court below, the same is directed to be refunded to the Petitioner.

Sd/-
Chandra Bhushan Bajpai
Judge