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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (227) No. 1029 of 2015

Branch Manager, The Oriental Insurance Co. Ltd. Branch Office Hotel Laxman Avenue, Medical College Road, Jagdalpur, District Bastar (Chhattisgarh)....................Non Applicant

---- Petitioner

Versus

1. Parasnath Jha S/o Vednath Jha, Aged About 33 Years Cate Brahmin, R/o Motitalabpara, Near Akansha Hotel, Jagdalpur, District Bastar (Chhattisgarh)
2. Public Utility Permanent Lok Adalat, Jagdalpur (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Raj Awasthi, Advocate.
For Respondents	:	Not noticed.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

09/12/2015

(1) Learned counsel for the Petitioner submits that as award dated 26.09.2015 (Annexure-P/1) passed by Respondent No.2/ Permanent Lok Adalat (Public Utility Services), Bastar at Jagdalpur, Chhattisgarh in Case No. 35 of 2014, on the face of record, is illegal and without any authority vested in it and as such, no notice is required to be issued to the Respondents and the matter may be disposed of finally at the motion stage itself.

(2) On due consideration, this Court is of the opinion that the present matter can be heard and disposed of finally at the motion stage without noticing the Respondents.

(3) Facts in brief of the instant Writ Petition (227) are that the Permanent Lok Adalat (Public Utility Services), Bastar at Jagdalpur in

Case No. 35 of 2014 (Parasnath Jha versus Branch Manager, The Oriental Insurance Company Limited and another) has passed the impugned award dated 26.9.2015 on an application filed by Respondent No.1 herein before the Court below under Section 22 sub-section (1) of the Legal Services Authorities Act, 1987 (for short 'the Act of 1987) for grant of compensation of Rs.5, 50,000/-. The contesting parties were not willing to compromise the matter, therefore, the Court below proceeded further and disposed of the matter on its merits vide impugned award. The Applicant/ Respondent No.1 was the owner of the vehicle No. CG-04DL-2480 and the same was insured with the Petitioner/ Non-applicant for the period 26.9.2012 till 25.9.2013. On 5.3.2013, the said vehicle met with a serious accident as it hit a tree. In the said accident, the driver of the vehicle and one another person died on the spot itself. The information regarding accident was reported to Non-applicant/ Petitioner and the Surveyor of the Insurance Company conducted inspection and submitted his report in which he has mentioned that at the time of accident as the deceased driver Saroj Rai was not having valid and effective driving license. On the basis of the said report as there is a breach of policy conditions, the Petitioner/ Non-applicant dismissed the claim filed by the Applicant/Respondent No.1. Thereafter, the Applicant/ Respondent No.1 had filed an application before the Permanent Lok Adalat (Public Utility Services), Bastar at Jagdalpur.

(4) After due consideration, the Permanent Lok Adalat (Public Utility Services), Bastar at Jagdalpur allowed the application of the Applicant/ Respondent No.1 filed under Section 22(1) of the Act of 1987 and passed the impugned award. As per paragraph 17 of the award, it

directed the Non-applicant/ Petitioner to deposit Rs.5,19,769/- and interest as directed and also other amounts under two other heads.

(5) Learned Counsel for the Petitioner submitted that till date, the Petitioner has not deposited any amount before the Court below. The Petitioner has assailed the impugned award by taking the ground that the award passed by the Court below is barred by jurisdiction and as such the same is illegal and improper. The Court below has committed jurisdictional error and failed to understand the provisions of Section 22C(8) of the Act. In support of the submissions advanced on behalf of the Petitioner, Learned counsel placed reliance upon an order passed in a matter decided by this Court in 2012(2) C.G.L.J. Page 142 (Bajaj Allianz General Insurance Company Limited vs. Dasru Patel and Others) wherein co-ordinate Bench of this Court has held as under:

> 16. Therefore under the provisions of the M.**V**.C. Act, the claim has to be preferred against the insured and the driver. Insurance Company is also added as a party by virtue of Section 149(2) of the Act. No claim against the Insurance Company is maintainable without the owner of the vehicle or the driver of the vehicle being made a party to the proceedings. Whereas the claim for compensation is validly maintainable against the insured and the driver without making the Insurance Company, a party. The Tribunal constituted under the MVC Act has been conferred the jurisdiction to entertain and adjudicate, such claims. But, the Permanent Lok Adalat constituted under the Act has jurisdiction to entertain, conciliate and if it fails adjudicate a claim, only against a public utility service. It cannot entertain and adjudicate any claim against a private individual like the insured and the driver. The dispute should be between a public utility service and

any party to the said dispute. Therefore, a dispute with reference to Insurance service necessarily means the claim is against the insurance company. The claim for compensation for the death of a victim of a road accident or for the injury sustained in an accident cannot be characterized as petty claims. It is a substantial claim. The Parliament has enacted the Motor Vehicles Act, 1988 specially constituting the Tribunal to adjudicate such claims and has specifically excluded the jurisdiction of the Civil Courts to entertain such claims. A statutory appeal is provided against such adjudication to the Hon'ble High Court. Normally, such claims are decided on the basis of evidence recorded, both oral and documentary. The Permanent Lok Adalat is broadly meant to decide petty cases. When the conciliation fails, the Permanent Lok Adalat has been vested with the power to decide the case on merits. However, no appeal is provided against such adjudication and the award passed by the Permanent Lok Adalat has been made final. It is in this back ground as is clear from the aforesaid statutory provisions the claims for compensation under the Motor Vehicles Act is not principally against the public utility services but against the insured and the driver of the vehicle and only in the event of the judgment/ award or decree is passed, the Insurance Company is liable to pay the said amount.

17. In view of above, in the considered opinion of this Court, the Permanent Lok Adalat constituted under Section 22-B of the Legal Services Authorities Act, 1987 has no jurisdiction to entertain and adjudicate the motor accident compensation claim under the Motor Vehicles Act, 1988.

18. For the reasons mentioned hereinabove, the writ petitions are allowed. The impugned orders are quashed."

(6) It is submitted that in the above-referred order the High Court had directed the Registry to send a copy of the order to all the Permanent Lok Adalats in the State for their guidance. It is next submitted that even after the said order passed by this Court, in many other cases in which the same question is involved, this Court heard the matter and disposed of the same holding that the claim against a private individual like the Insurer and driver cannot be not entertained and adjudicated. It is further submitted that the Permanent Lok Adalat has jurisdiction to dispose of the matter only when the parties amicably arrived at a settlement for compromise. If no compromise or settlement has been arrived at between parties then under the authority of the Act, the Lok Adalats are required to advise the parties to seek remedy before the Competent Court. It is further submitted that as per the facts of the matter the jurisdiction lies either with the Motor Accidents Claims Tribunal under the relevant provisions of law or with the Consumer Dispute Redressal Forum. It is lastly submitted on behalf of the Petitioner that the petition may be admitted for hearing and after hearing, the same may be allowed by setting aside the award passed by the Court below.

(7) For the purpose of appreciation of the prayer made in the petition, I have heard Learned Counsel for the Petitioner.

(8) Learned Counsel for the Petitioner has duly supported the grounds taken in the matter and submitted that with regard to the issue involved in this petition the law is well settled and according to which the Court below has passed the award without the jurisdiction vested in it, and as such the same is patently illegal, hence the same may be set aside and the petition may be allowed.

(9) Perused the memo of the petition and the documents annexed.

(10) So far as the issue involved in the present petition, this Court has reiterated the law in the matter of Bajaj Allianz General Insurance Company Limited (Supra) wherein it was held that the Permanent Lok Adalat constituted under Section 22-B of the Act of 1987 has no jurisdiction to entertain and adjudicate the motor accident claim under the Motor Vehicles Act and also cannot entertain and adjudicate any claim against the private individual like the insurer and the driver.

A bare perusal of Section 20 Sub-section (6) the Act of 1987 goes to show that If no compromise or settlement would be arrived at between parties then under the authority of the Act, the Lok Adalats are required to advise the parties to seek remedy before the Competent Court. In the present matter, it is apparent from paragraph 2 of the award that attempts to compromise between the parties have been made but as there was no compromise between the parties the matter has been disposed of on its merits. Under the provisions of law and according to the case law referred to hereinabove, the Court below has no jurisdiction to entertain the matter.

(11) On due consideration, the impugned award passed by the Court below *prima facie* patently illegal, beyond jurisdiction, improper and without authority of law. The same requires interference. Consequently, the instant WP(227) is hereby allowed and the impugned award dated 26.09.2015 passed by the Permanent Lok Adalat (Public Utility Services), Bastar at Jagdalpur in Case No. 35 of 2014 is hereby set aside.

(12) Respondent No.1 would be at liberty to file an appropriate application before the Claims Tribunal/ Consumer Disputes Redressal Forum, in accordance with law.

(13) Registrar General is directed to send a copy of this order to all the the Permanent Lok Adalats (Public Utility Services) in the State for their guidance.

(14) No order as to costs.

Sd/-

(Chandra Bhushan Bajpai)

JUDGE

Nimmi