*****

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.13392 of 2015
Date of decision:11.08.2015

New India Assurance Company Limited ...Petitioner

Versus

Permanent Lok Adalat and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Vinod Gupta, Advocate,
for the petitioner.

*****

Rakesh Kumar Jain, J.

The petitioner has challenged award dated 06.04.2015 passed by the Permanent Lok Adalat under Section 22C of the Legal Services Authorities Act, 1987 (hereinafter referred to as the “Act”).

In short, respondent No.2 got his vehicle make `Ashoka Leyland Trailer', bearing registration No.HR45-A-2625, insured with the petitioner against Policy No.353601/31/07/05078 on payment of premium of ₹53,194/- for Insured Declared Value (IDV) of ₹19,00,000/-. The said vehicle was financed by respondent No.3. The vehicle met with an accident on 20.06.2008 near village Prayagpur (Rajasthan). Respondent No.2 informed the petitioner immediately about the accident. The petitioner got conducted the spot survey and vehicle was brought to M/s Gautam Automobile Pvt. Ltd., Rohtak, for repair. The petitioner appointed Abdul

*****

Baqi Khan as Surveyor to assess the loss of the vehicle, who prepared his report on 04.07.2008 and submitted it to the petitioner on 15.02.2009, after a period of 7 months. However, he did not supply the copy of survey report to respondent No.2, who procured the same under the Right to Information Act, 2005, and found that it was wrongly mentioned therein that respondent No.2 had agreed to settle the claim/loss on cashless basis for a sum of ₹3,25,000/-. The Surveyor had assessed the loss, on repair basis, of ₹5,31,198/-. Since respondent No.2 was not satisfied with the aforesaid survey report, he hired the services of an independent IRDA approved Surveyor Shri Radhey Shyam Garg, working under the Surveyor License No.SLA11788, who submitted his report that the vehicle was beyond repair and the claim should have been settled on total loss basis. On 31.03.2011, the petitioner informed respondent No.2 that the company was not agreeable to settle the claim on cashless basis, but the said decision was taken by the petitioner after a period of about three years from the date of the accident, which took place in the year 2008. The petitioner further repudiated the claim of respondent No.2 on 01.09.2011 on the ground that the driver of the vehicle, namely, Roshan Lal was not holding a valid driving license at the time of accident. Since the vehicle was beyond repair, therefore, respondent No.2, with the permission of respondent No.3, sold front portion of the vehicle for a sum of ₹2,50,000/- as scrap and when his claim was not settled by the petitioner, respondent No.2 filed the application before the Permanent Lok Adalat.

It is observed in the impugned order that the efforts were made

*****

for conciliation but the parties to the lis failed to agree, therefore, the Permanent Lok Adalat proceeded in the matter in terms of Section 22C(8) of the Act.

The evidence led by both the parties was examined and it was held that respondent No.2 is entitled to ₹16,48,500/- on account of total loss of the insured vehicle.

Counsel for the petitioner has vehemently argued on the issue of repudiation of claim of respondent No.2 on the ground that the driver of the vehicle, namely, Roshan Lal, was not having a valid driving license at the time of accident as he was having two licenses.

This aspect has been thoroughly discussed by the Permanent Lok Adalat in para no.15 of its order and had found that on the fateful day, the driver was having the valid driving license issued by the DTO, Nagaland, which was valid from 03.07.2008 to 02.07.2011 authorizing the said driver to drive MC, LMV, HGV and HTV class of vehicles. It has been found that the said driving license was duly proved by respondent No.2 by producing report Ex.P7 dated 19.10.2010 and investigation report Ex.P18 dated 21.10.2010.

Insofar as the other argument of the petitioner in regard to amount of claim is concerned, that has also been thoroughly discussed by the Permanent Lok Adalat in para no.16 of its judgment, holding that IDV of the insured vehicle was ₹19,00,000/-, out of which IDV of horse portion was ₹14,00,000/- and IDV of the rear portion (tralla) was ₹5,00,000/-. Since it is a case of total loss and respondent No.2 had already recovered

*****

₹2,50,000/- by selling the salvage of front portion of the vehicle, it has been deducted from the insured amount of ₹14,00,000/- of the front portion, which brings the recoverable amount to ₹11,50,000/-, out of which ₹1,500/- was also deducted and, thus, the claimable amount of the front portion was ₹11,48,500/-. However, the petitioner was held entitled to claim the entire amount of ₹5,00,000/- of the rear portion. In this manner, respondent No.2 has been awarded ₹16,48,500/-.

I do not find any error on the part of the Permanent Lok Adalat nor anything has been suggested by the counsel for the petitioner as to how the amount awarded is excessive except for arguing that the loss assessed by their Surveyor should have been considered. Once it has been held by the Permanent Lok Adalat that total loss of the vehicle was of ₹19,00,000/-, the surveyor report, awarding only ₹5,31,198/- on repair basis, cannot be accepted.

In view of the aforesaid discussion, I do not find any merit in the present writ petition and hence, the same is hereby dismissed.

August 11, 2015 **(Rakesh Kumar Jain)**
vinod* **Judge**