**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.23697 of 2015
Date of Decision: December 14, 2015**

Life Insurance Corporation of India ...Petitioner

Versus

Permanent Lok Adalat and another
...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU
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Present: - Mr. Piyush Sharma, Advocate
for the petitioner.
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HARINDER SINGH SIDHU, J.

The petitioner-Life Insurance Corporation of India has filed the present petition praying for quashing the award dated 13.07.2015 (Annexure P-1) passed by the Permanent Lok Adalat (Public Utility Services) Gurgaon Division, whereby the petitioner has been directed to pay the insured amount and benefits under the insurance policy to respondent No.2.

Respondent No.2 had taken a Life Insurance Policy bearing No.332886472 from the petitioner. The date of commencement of the policy was 14.10.2009. The policy covered death and permanent disability on account of accident. Respondent No.2 met with an accident on 20.04.2014 and received grievous injuries on his person, due to which his left leg was amputated from the knee. Resultantly, he became permanently disabled and the Medical Board assessed it as permanent disability to the extent of

65% on 23.07.2014. Respondent No.2 lodged the insurance claim with the petitioner. He stated that as a result of the disability he had become unemployed and was not able to do any work. The claim was repudiated by the petitioner vide letter dated 30.10.2014 on the ground “no claim is payable on amputation of one limb”.

Aggrieved, respondent No.2 filed a petition under Section 22-C of the Legal Services Authority Act, 1987 before the Permanent Lok Adalat (Public Utility Services), Gurgaon.

The petitioner contested the claim and stated that it had been rightly repudiated in view of clause 10(2)(a) and 10(4) of the policy stating that as per the aforesaid clauses accident benefit could not be given for amputation of one limb. However, the learned Permanent Lok Adalat rejected the defence of the petitioner. It was held that as per the last line of clause 10(4) of the policy, amputation of one foot at or above the ankle shall also be deemed to constitute disability and the petitioner was directed to pay the insured amount and benefits under the policy to respondent No. 2.

Learned counsel for the petitioner has argued that the learned Permanent Lok Adalat has misconstrued the provisions of the policy. He argued that in terms of the clause 10(4) of the policy, the claim is permissible only where the sight of both eyes is lost or there is amputation of both hands at or above the wrist or amputation of both feet at or about the ankle or there is amputation of one hand at or above the wrist and one foot at or above the ankle. It has been argued that except for the above mentioned disabilities, in no other case is the accidental claim permissible and that the learned Permanent Lok Adalat has wrongly held that such a claim would be permissible in case of amputation of leg above the ankle.

The relevant clauses 10(2) and 10(4) of the policy are reproduced below:

> *"10(2) If at any time when this policy is in force for the full sum assured the life assured before the expiry of the period for which the premium is paid or before the policy anniversary on which the age nearer birthday of the life assured 70 whichever is earlier is involved in an accident resulting in either permanent disability as hereinafter defined or death and the same is proved to the satisfaction of the Corporation the Corporation agrees in the case of*
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> *(a) Disability to the Life Assured: (i) To pay in monthly instalments spread over 10 years an additional sum equal to the sum assured under this Policy. If the Policy becomes a claim before the expiry of the said period of 10 years, the disability benefits instalment which have not fallen due will be paid along with the claim, (ii) To waive the payment of future premiums.*
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> *xxx xxx xxx*
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> *10. (4). The disability above referred to must be disability which is the result of an accident and must be total and permanent and such that there is neither then nor at any time thereafter any work, occupation, or profession that the Life Assured can every sufficiently do or follow to earn or obtain any wages, compensation or profit. Accidental injuries which independently of all other*

causes and within 180 days from the happening of such accident, result in irrecoverable loss, of the entire sight of both eyes or in the amputation of both hands at or above the wrist, or in the amputation of both the feet at or above the ankle or in the amputation of ne hand at or above the wrist and one foot at or above the ankle, shall also be deemed to constitute such disability."

A perusal of the above terms and conditions of the policy indicate that it covers cases of an accident resulting in either death or permanent disability as defined in clause 10(4). This Clause is in two parts. First part states that the disability must be disability which is the result of an accident and must be total and permanent and such that there is neither then nor at any time thereafter any work, occupation, or profession that the Life Assured can ever sufficiently do or follow to earn or obtain any wages, compensation or profit. The second part lists the injuries which shall be deemed to be disabilities of the character as specified in the first part.

This clause cannot be read to mean, as has been urged by the Ld. Counsel for the petitioner, that it is only in respect of the injuries as listed in the latter part of clause 10(4) that insurance claim can be allowed. If the assured has suffered an injury other than the injuries specified in the latter part of clause 10(4), which injury results in total and permanent disability resulting in the assured being incapable of sufficiently carrying out any work, occupation or profession to earn his livelihood, then also the claim has to be allowed. This provision has to be interpreted in a realistic manner to include a disability which would permanently impair the earning capacity of the assured in his chosen avocation. It cannot be read to mean that to claim the insured amount, the disability must be of a nature as to result in an absolute incapacity to carry out any work or avocation, for if that is the interpretation, then howsoever grave and serious the disability, because of the advancement in science and technology and the endless possibilities to earn, it can always be urged that there is scope to earn in one or another way. Such an interpretation cannot be accepted.

In the present case, because of the accident the left leg of respondent No. 2 from the knee was amputated. This is a permanent and total disablement. In the absence of any other material to indicate that despite suffering the disability, respondent No. 2 is actually earning or capable of earning and carrying out an avocation suited to his station in life, it has to be assumed that the disability answers the requirement of the first part of clause 10(4).

Accordingly, it has to be held that the claim of respondent No.2 was wrongly repudiated by the petitioner and there is no illegality in the Ld. Permanent Lok Adalat directing the petitioner to pay the insured amount to him.

Thus there is no merit in the writ petition and the same is dismissed.

December 14, 2015 **(HARINDER SINGH SIDHU)**
JUDGE

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