

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

119

Civil Writ Petition No.8330 of 2015

Date of Decision: May 01, 2015

M/s Iffco Tokio General Insurance Company Ltd.

...Petitioner

Versus

Gurpreet Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. G.D. Gupta, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court impugning the award dated 09.01.2015 (Annexure P-1) passed by the Permanent Lok Adalat (Public Utility Services), Bathinda, vide which the claim of respondent No.1 has been accepted on the basis of the vehicle having been damaged and assessed as total loss.

It is the contention of the counsel for the petitioner that after the accident had taken place, the company had deputed M/s Bansal and Company to assess the damage caused to the vehicle. As per the assessment of the Surveyor, the same was estimated at ₹4,30,000/-. The vehicle was insured on I.D.V. of ₹8,10,000/-. For a total loss, the assessment is to exceed 75% of the I.D.V. and since the Surveyor had only given assessment to the extent of loss of ₹4,30,000/-, the vehicle could not have been treated as a constructive total loss. The award thus passed by the Permanent Lok Adalat

treating the vehicle to be a total loss is not sustainable.

This contention of the counsel for the petitioner cannot be accepted in the light of the reasons, which have been assigned by the Permanent Lok Adalat in the impugned award, where it is stated in para 7 to 10 as follows:-

7. *We find no merit in the submission of the learned counsel for the respondent No.1. We looked into with care the report of registered surveyor deputed for the purposes by respondent No.1. In his report, the registered surveyor had clearly stated substantial damage of the vehicle in question. One heavy vehicle had been ahead of vehicle no.PB03AA-3167 of the applicant. The heavy vehicle ahead of the vehicle of the applicant had suddenly applied brakes with the result front portion of vehicle No. PB03AA-3167 had struck against the rear portion of the vehicle ahead. Cabin as also Engine stood substantially damaged. It was true that in his report M/s Bansal and Company had indicated expected net loss of Rs. 4,30,000/-. However, the registered surveyor had appended note in his report to the following effect:-*

“Every care has been taken while assessing the loss on the basis of visible damaged parts, but some parts/damages may not be visible and there may be hidden damages, which can only be visible on dismantling. So the estimate can increase or decrease on dismantling. However, this is approximate assessment.”

8. *In view of this report of the registered surveyor, respondent No.1 had been wrong in saying that the vehicle had suffered loss of Rs.4,30,000/-.*

9. *The respondent no.1 filed affidavit of Sh. Pallavi Roy, its Authorized Signatory. In his affidavit the deponent states that the applicant had not taken vehicle to the workshop for repair. The vehicle was stated lying at the site of the accident. Similar statement had been made by respondent no.1 in its reply. The applicant had filed rejoinder and had stated having taken the vehicle to M/s Padam Motors, authorized dealer/workshop for repair. The application had*

been supported by a duly attested affidavit of the applicant. As such noticed the respondent No.1 had relied on the report of M/s Bansal and Company. M/s Bansal and Company were registered surveyor and loss assessor and had been deputed by respondent no.1 for assessment of loss. In his report on particulars of accident in column no.7, Mr. Vijay Bansal had clearly stated that survey and loss assessment work of the vehicle had been done at M/s Padam Motors. It was clear that the applicant had taken the vehicle to the workshop for repair. However, the workshop had worked out the cost of repair at Rs.11,64,625/-. The applicant had rightly refused to go in for repair as the repair cost exceeded IDV of the vehicle.

10. Sh. Pallavi Roy Authorized Signatory of respondent no.1 did not have personal knowledge of the accident and repair cost of the vehicle. It had nowhere been stated that the deponent had expertise in determining the cost of repair of the vehicle. In view of this position the version of the applicant supported by report of M/s Padam Motors was liable to be upheld. It is clear that the vehicle was not fit for repair and the applicant had rightly avoided to go in for repair. Preliminary objection of the respondent No.1 are without merit and are rejected.

In view of the above, the award passed by the Permanent Lok Adalat dated 09.01.2015 (Annexure P-1) is based upon the evidence on record and does not call for any interference by this Court.

The writ petition, therefore, stands dismissed.

May 01, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE