

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

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**LPA No.646 of 2015 (O&M)  
Date of Decision: 29.04.2015**

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The Oriental Insurance Co. Ltd.

... Appellant

VS.

Phool Kanwar & Anr.

... Respondents

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**CORAM: HON'BLE MR.JUSTICE SURYA KANT  
HON'BLE MR.JUSTICE P.B. BAJANTHRI**

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Present: Mr. DP Gupta, Advocate for the appellant

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**SURYA KANT, J. (Oral)**

(1) This Letters Patent Appeal assails the order dated 08.12.2014 whereby learned Single Judge has dismissed the appellant's writ petition in which the award dated 11.04.2013 passed by Permanent Lok Adalat (Public Utility Service), Gurgaon, was challenged.

(2) The Permanent Lok Adalat has directed the appellant-Company to pay the amount of insured declared value of the vehicle (Mahindra Bolero) which was reported to have been stolen on the intervening night of 16/17 February, 2012.

(3) The claim of the first respondent was resisted by the appellant-company on the ground that there is a breach of terms and conditions of the policy as the theft was reported to the appellant after 91 days as against the condition stipulated in the policy to report the same within 48 hours.

(4) The above-stated contention raised by the appellant has been repelled by learned Single Judge on two counts. Firstly, the finding of fact returned by the Permanent Lok Adalat on appreciation of the documentary evidence on record suggests that the intimation of the theft was actually made to the appellant-company on the very next day i.e. 18.02.2012 and there is an interpolation in the record of the Company. The learned Single Judge vide para-2 of the order under appeal has explicitly approved this finding.

(5) Secondly, learned Single Judge has observed and rightly so that mere non-submission of intimation within 48 hours, if there is a valid explanation for the delay, would not render the claim barred by law. He has very aptly referred to Article 44(b) of the Limitation Act which prescribes the statutory period of limitation for such like recovery claims save in a case where the Special Law through legislative means has reduced the period of limitation. For example, the Consumer Protection Act where two years' time period has been prescribed. In the absence of any express fetters under the Legal Services Authorities Act, learned Single Judge has viewed that the claim of the Insurer cannot be rejected only on the ground that it was lodged beyond 48 hours.

(6) In all fairness learned counsel for the appellant relies upon the decision of the Hon'ble Supreme Court in **Oriental Insurance Co. Ltd. vs. Parvesh Chander Chadha (Civil Appeal No.6739 of 2010)** decided on 17th August, 2010 to contend that once the claim

was lodged beyond the period agreed to under the policy, the appellant-company was well within its right to repudiate such claim.

(7) In our considered view, the cited decision is distinguishable for more than one reasons. Firstly, in that case the unexplained inordinate delay much beyond the time limit prescribed under the policy, was an admitted fact. In the instant case, there is a categorical finding of fact returned against the appellant by the Permanent Lok Adalat as well as by learned Single Judge. Secondly, the insurance company in the cited decision was, as it appears, deprived of its legitimate right to get the fact-finding enquiry conducted due to inordinate delay in intimation. That is not the case here. In the written statement, the appellant-company has specifically referred to the enquiry conducted by M/s GB Mathur & Co. The report, as reproduced in the written statement does not even remotely suggest that the alleged delay in reporting the theft caused any impediment in the fact-finding enquiry. Taking into consideration the totality of the facts and circumstances more-so when there is no reason to doubt the *bona fide* of the claim, we decline to interfere with the impugned order passed by the learned Single Judge.

(8) Dismissed.

**(Surya Kant)**  
**Judge**

**29.04.2015**  
*vishal shonkar*

**(P.B. Bajanthri)**  
**Judge**