IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CWP No.13922 of 2016
Date of Decision : 28.7.2016

United India Insurance Co. Ltd. ......Petitioner

Vs.

Samarjeet Singh and another ......Respondents

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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Present : Mr. Lalit Garg, Advocate for the petitioner.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

Instant writ petition is directed against the order dated 25.4.2016 passed by the learned Permanent Lok Adalat (Public Utility Services), Barnala, whereby application of respondent no.1 was allowed, holding the petitioner responsible for paying the requisite amount to respondent no.1-insured.

The only argument raised by learned counsel for the petitioner is that since respondent no.1-insured informed the petitioner-company late about the incident, his claim was rightly repudiated by the petitioner-company. He further submits that since respondent no.2 did not appreciate this material aspect of the matter, while passing the impugned order, the same is liable to be set aside. He prays for setting aside the impugned order, while allowing the present writ petition.

Having heard learned counsel for the petitioner, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this court is of the considered opinion that since the impugned order passed by respondent no.2 has been found based on cogent findings, which are duly supported by sound reasons, it deserves to be upheld. The writ petition having been found without any merit, is liable to be dismissed, for the following more than one reasons.

It has gone undisputed before this court that respondent no.1 was insured with the petitioner company. Incident had also not been disputed by the petitioner. Amount of insurance is also undisputed. The only hypertechnical contention raised on behalf of the petitioner is that respondent no.1 informed the insurance company late about the incident in question. This aspect of the matter was examined, discussed and appreciated in correct perspective by respondent no.2, before passing the impugned order. Since the impugned order has not been found suffering from any patent illegality, the same deserves to be upheld.

Once the material facts had never been in dispute between the parties, petitioner cannot succeed on the basis of technicalities alone. The relevant operative part of the impugned order, which deserves to be noticed here, reads as under :

> " In Phool Kanwar's case (supra) the vehicle was stolen during the intervening night of 16-17 February 2012. FIR was registered on 17.2.2012 itself but the insurance company was informed after 91 days of occurrence. In Gordhan's case (supra) FIR was registered

immediately after the theft but the insurance company was informed after 112 days. It was held in both these cases that “if there was a delay in informing the insurer it was surely relevant for assessing the truth of the claim but it cannot be such as to provide cause for the insurance to repudiate in the same manner that the claim beyond the limitation could be said to be barred. The statutory bar for lodging a complaint for recovery of the amount of a policy of insurance is at all times three years as per Article 44 (b) of the Limitation Act, 1963, the period of which will commence from the occurrence of loss or where the claim of the policy is denied.

Case law relied upon by the applicant is to be followed. Hence it must be held that the insurance company was at fault when it rejected the claim of the applicant. Information required to be given to the insurance company was for the purpose of assessing the truth of the claim. The case was investigated by the police who failed to recover the vehicle in question and ultimately the case was submitted to the court as “untraceable”. The said report was accepted by the court. No report has been placed on the file by the insurance company which could show that the matter was investigated by any investigator appointed by the insurer and as such repudiation of the case cannot be said to be valid by any yard-stick.

> Accordingly it can be safely said that the repudiation of claim on account of delay in intimating the theft to the insurance company is not fatal and an award is passed in favour of the applicant and against the respondents for the recovery of Rs.19,00,000/- being IDV. The applicant is also entitled to claim interest @ 9% per annum w.e.f. 5.8.2015. (when the claim was repudiated) till the payment is made. The applicant is also entitled to Rs.20,000/- as compensation on account of mental agony and harassment and Rs.10,000/- as litigation charges. File be consigned."

During the course of hearing, learned counsel for the petitioner could not point out any illegality in the impugned order passed by respondent no.2 and rightly so, it being a matter of record. Further, no prejudice of any kind, whatsoever, has been shown to have been caused to the petitioner because of the alleged delayed information.

In this view of the matter, it can be safely concluded that the present one has not been found to be a fit case for interference at the hands of this court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this court is of the considered view that since neither the impugned order has been found suffering from any patent illegality or perversity nor any prejudice has been shown to have been caused to the petitioner by passing the impugned order, the same deserves to be upheld. The present writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the above said observations, instant writ petition stands dismissed, however, with no order as to costs.

28.7.2016 (RAMESHWAR SINGH MALIK)
GS JUDGE

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No