

In the High Court of Punjab and Haryana at Chandigarh.

**CWP 17321 of 2015
Decided on 23.11.2016**

National Insurance Company Limited and another

--Petitioners

Vs.

Satpal Singh and another

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. Nitin Gupta, Advocate, for the petitioners

Mr.APS Gill, Advocate, for the respondents

Rakesh Kumar Jain,J: (Oral)

This petition is filed by the Insurance Company against the order dated 25.11.2014 passed by the Permanent Lok Adalat (PUS) Sirsa, allowing the application of respondent No.1 filed under Section 22-C of the Legal Services Authorities Act, 1987 (for short,'the Act').

Admitted facts of the case are that Truck bearing registration No. RJ-191G/1305 was insured with the petitioners for the period w.e.f. 30.10.2009 to 29.10.2010. On the intervening night of 19/20.12.2009, the Truck parked in the street near Darpan Cinema at Mandi Dabwali was stolen as on the next morning, at about 4.30.p.m, the driver found the Truck missing from the said place. He reported the matter to the Police

Station City Dabwali vide FIR No.223 dated 21.12.2009 registered under Section 379 IPC and also informed the petitioner (Insurance Company) about the theft of the Truck on 29.12.2009.

The petitioner repudiated the claim of respondent No.1 on the ground of his negligence and delay in intimation to the company.

The case set up by the petitioner is that the driver of the Truck had left the ignition key in the Truck which was easily accessible for theft and thus, driver of respondent No.1 was totally negligent.

On the other hand, learned counsel for the respondents has submitted that the finding recorded by the Permanent Lok Adalat (PUS) is that the driver of the Truck had locked the main window from which no body could had any access to the key left in the ignition for the purpose of taking away the Truck and ,thus, there was no negligence on the part of the driver of the Truck. It was also found by the Permanent Lok Adalat (PUS) that there was hardly any delay on the part of the driver of the Truck in registration of the FIR. Moreover, the Truck was insured for the period from 30.10.2009 to 29.10.2010 and the Insurance Company was informed after about eight days.

Learned counsel for the petitioner has submitted that the very fact that it was the driver of respondent No.1 who had left the ignition key in the Truck, is sufficient to hold that he was negligent for which the Insurance Company cannot be held liable.

On the other hand, learned counsel for the respondents has submitted that even if it is presumed that the key was there, the evidence has been led to the effect that the driver had locked the main door and there was no access to the ignition key.

After hearing learned counsel for the parties and examining the record, I am of the considered opinion that there is no error in the order of the Permanent Lok Adalat (PUS), Sirsa, insofar as the reasonable care having been taken by the driver of the Truck in question is concerned.

Insofar as the question of delay in reporting the matter to the Insurance Company is concerned, there is hardly any delay on the part of respondent No.1 who had got the FIR registered on 21.12.2009 and the Insurance Company was informed eight days thereafter.

In view of the above, I do not find any merit in this petition and the same is hereby dismissed.

23.11.2016
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(Rakesh Kumar Jain)
Judge