

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CWP No.19293 of 2016
Date of Decision : 19.9.2016

Bajaj Allianz General Insurance Company Ltd.Petitioner

Vs.

Permanent Lok Adalat (PUS) Patiala and othersRespondents

...

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

...

Present : Mr. Sachin Ohri, Advocate for the petitioner.

...

RAMESHWAR SINGH MALIK, J

Present writ petition is directed against the order dated 26.5.2016 (Annexure P-8) passed by the learned Permanent Lok Adalat (Public Utility Services) Patiala, whereby claim of respondent no.2 was allowed to the limited extent, as assessed by the surveyor of the petitioner-company itself.

Heard learned counsel for the petitioner.

Placing reliance on the judgement of this court in **Bajaj Allianz General Insurance Company Ltd. Vs. Permanent Lok Adalat (PUS), Gurgaon and another** (CWP No.15037 of 2008) decided on 14.9.2010, learned counsel for the petitioner submits that the petitioner-insurance

company was not liable to indemnify respondent no.2 for his own damage caused to his vehicle, which was insured with the petitioner-company. He further submits that since the learned Permanent Lok Adalat has failed to appreciate this important aspect of the matter, while passing the impugned order, the same is illegal and liable to be set aside.

Having heard learned counsel for the petitioner at considerable length, 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 keeping in view the peculiar facts and circumstances of the case, the solitary argument raised on behalf of the petitioner has been found wholly misconceived. The writ petition is without any merit, which is liable to be dismissed. The impugned order deserves to be upheld. To say so, reasons are more than one, which are being recorded hereinafter.

The undisputed facts between the parties are that car bearing Registration No.HR26-BD 8656 was originally owned by M/s L.G. Electronics India Pvt. Ltd., Greater Noida, Noida NCR. The car was purchased by respondent no.2 namely; Navdeep Kumar from the original owner. Pursuant to the purchase by respondent no.2 from the original owner, the ownership of the vehicle in question also stood transferred in favour of respondent no.2 as per Registration Certificate dated 4.9.2014. The fact that the insured vehicle came to be involved in a road accident on 1.2.2015 is also not in dispute. It was the true owner-respondent no.2, who himself was driving the vehicle with a valid and effective driving licence.

The claim was lodged with the petitioner-company. In view of the above said fact situation obtaining on the record of the present case, when a specific question was put to learned counsel for the petitioner, as to what

prejudice has been caused to the petitioner-company by passing the impugned order, he had no answer and rightly so, it being a matter of record. However, he has tried to explain that since the insurance policy will not automatically get transferred in favour of respondent no.2, so far as the claim of his own damage was concerned, he was not entitled for the claim, though respondent no.2 might be entitled for a third party claim.

After, giving anxious consideration to the above said solitary contention raised on behalf of the petitioner, this court is of the considered opinion that the contention raised is misplaced, which has not been found worth acceptance. It is so said because the genuine claim is being sought to be defeated by the petitioner-company only on the basis of technicalities and super-technicalities. It is not in dispute that the insurance policy was operative and the insurance company has also received the amount of premium of Rs.7539/- in time.

A bare reading of the impugned order would also make it crystal clear that respondent no.2 was working with M/s L.G. Electronics India Pvt. Ltd., and there was relationship of master and servant between them. So far as the petitioner was concerned, once the premium was paid to it either by M/s L.G. Electronics India Pvt. Ltd., or respondent no.2, it would hardly be of any consequence. Further, had it been a third party claim, learned counsel for the petitioner himself has not disputed the liability of the petitioner, who would have been liable to indemnify the true owner for the loss caused.

Coming to the judgement relied upon by learned counsel for the petitioner in CWP No.15037 of 2008, referring to G.R. 17, there is no dispute about the observations made therein. However, on close perusal of

the cited judgement, the same has not been found of any help to the petitioner, being distinguishable on facts. Further, peculiar facts and circumstances of each case are to be examined, considered and appreciated first before applying any codified or judgemade law thereto. Sometimes, difference of even one additional fact or circumstance can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundra Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

Perusal of the impugned order passed by the Permanent Lok Adalat would also make it clear that the learned Permanent Lok Adalat was very much conscious of the fact that it was a case of own damage and was not a case to indemnify the owner qua third party claim. The learned Permanent Lok Adalat was also aware about the Motor Tariff Regulations. The relevant part of the impugned order passed by the learned Permanent Lok Adalat, reads as under :-

“ The next submission of the learned counsel for the respondents was that the applicant had lodged the claim for an amount of Rs.1,25,000/-. However, the surveyor was appointed by the respondents who vide his report dated 26.3.2015 Ex.R-7 had assessed the loss to the tune of Rs.73,273/-. Therefore, the applicant is not entitled to mere amount than that.

This submission has been considered. The settled law is that the report of the surveyor should be given preference. Therefore, the applicant is held entitled to this amount of Rs.73,273/-.

Consequently, we conclude that the repudiation of the claim is not justified and amounts to deficiency of service. The respondents are directed to pay the claim amount as per the surveyor report dated 26.3.2015 (Ex. R-7) i.e. Rs.73,273/- to the applicant within one month from the receipt of the copy of the award failing which with 9% per annum interest from the date of award till payment. In the peculiar circumstances of the case, the parties are directed to bear their own costs. Copy of the award be supplied to the parties free of costs as and when they apply for the same.”

Although, respondent no.2 claimed an amount of Rs.1,25,000/-, however, the learned Permanent Lok Adalat granted the claim of respondent no.2 only to the limited extent of Rs.73,273/-, which was found verified as such by the surveyor of the petitioner-company. Further, during the course of hearing, learned counsel for the petitioner could not point out any prejudice, which might have been caused to the petitioner, by passing the impugned order by the Permanent Lok Adalat, which may warrant 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 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 made, the present writ petition stands dismissed, however, with no order as to costs.

19.9.2016
GS

(RAMESHWAR SINGH MALIK)
JUDGE

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