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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21567 of 2014
Date of decision:23.09.2016

Sriram General Insurance Company Ltd. and another ...Petitioners

Versus

Kasim Khan and another ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Vinod Arya, Advocate,
for the petitioners.

Mr. Munfaid Khan, Advocate,
for respondent No.1.

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Rakesh Kumar Jain, J.

The Insurance Company has challenged the order passed by the Permanent Lok Adalat (Public Utility Services), Gurgaon, Camp Court at Nuh, dated 25.07.2014, by which application filed by respondent No.1 under Section 22-C of the Legal Services Authority Act, 1987 (hereinafter referred to as the "Act") has been allowed.

In short, respondent No.1 purchased a motorcycle bearing registration No.RJ-02SG-9831 and got it insured with the petitioner-company for a sum of ₹38,000/- for the period 07.08.2010 to 06.08.2011. The said motorcycle was stolen on 10.08.2010, for which FIR No.409 dated 11.08.2010, under Section 379 IPC was got registered at Police Station Nuh. However, claim of respondent No.1 was rejected by the insurance company

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on the ground that the intimation was not given to the insurance company immediately but after 19 days of the theft. Thereafter, respondent No.1 filed an application under Section 22-C of the Act, which has been allowed by the Permanent Lok Adalat vide its order dated 25.07.2014 and hence, the present petition has been filed.

The case set up by the petitioner is that the intimation of theft was given to the insurance company after 19 days, which is a breach of the condition of the insurance policy, in which it is provided that the insured has to intimate the Insurance Company immediately after the theft or accident, as the case may be. In support of its contention, counsel for the petitioner has relied upon a decision of this Court in the case of **National Insurance Co. Ltd. vs. State of Haryana and others,** 2013(1) R.C.R. (Civil) 434 and a judgment of the Supreme Court in the case of **Oriental Insurance Co. Ltd. vs. Parvesh Chander Chadha,** Civil Appeal No.6739 of 2010, arising out of SLP(C) No.12741 of 2010, decided on 17.08.2010.

I have heard learned counsel for the parties and perused the available record.

As a matter of fact, the intimation to the police was given by respondent No.1 on the very next day i.e. 11.08.2010 and the FIR was also registered on the same day but the intimation was given to the Insurance Company after 19 days.

In **Oriental Insurance Co. Ltd.'s case (supra)**, the theft had occurred between 18.01.1995 and 20.01.1995, the FIR was lodged on 20.01.1995 but the intimation to the Insurance Company was given on

22.05.1995 i.e. after 4 months. Similarly, in **National Insurance Co. Ltd.'s case (supra),** the FIR was lodged after 26 days and intimation was given to the insurance company after 275 days but in the present case the FIR was lodged on the very next day of the theft.

In the case of **HDFC Ergo General Insurance Company Ltd. vs. Permanent Lok Adalat and another,** CWP No.8943 of 2016, decided on 09.05.2016, the intimation was given to the insurance company after 14 days and it has been held by this Court that since the FIR was registered immediately but the insurance company was intimated after 14 days, therefore, there was hardly any error on the part of the insured and the delay was not inordinate.

Similarly, in the present case, there is hardly any fault on the part of respondent No.1 who had intimated the police on the very next day of the theft but intimated the Insurance Company after 19 days, which is not an inordinate delay as against the period involved in **Oriental Insurance Co. Ltd.'s case (supra),** in which there was a delay of 4 months, and in **National Insurance Co. Ltd.'s case (supra),** in which there was 275 days' delay.

In view of the aforesaid discussion, I do not find any merit in the present petition and hence, the same is hereby dismissed.

September 23, 2016 **(Rakesh Kumar Jain)**
vinod* **Judge**

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No