

Civil Writ Petition No. 23644 of 2016

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

**Civil Writ Petition No. 23644 of 2016
Date of Decision: 17.11.2016**

Iffco Tokio General Insurance Co. Ltd

.....Petitioner

Vs.

Ram Diya Soni and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Yogesh Gupta, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the order dated 7.9.2016 (Annexure P-4) passed by the learned Permanent Lok Adalat, Public Utility Services, Karnal Camp Court at Kurukshetra, whereby application moved by insured-respondent No. 1 under Section 22-C of the Legal Services Authorities Act, 1987, was allowed, directing the petitioner-insurance company to indemnify the insured.

Heard learned counsel for the petitioner.

The only argument raised by learned counsel for the petitioner and that too, not on merits but based on technicality, is that the insured-respondent No.1 violated the terms and conditions of insurance policy, while not getting his vehicle permanently registered. In support of his contentions, learned counsel for the petitioner places reliance on the following judgments:-

- 1) M/s Suraj Mail Ram Niwas Oil Mills (P.) Ltd Vs. United India Insurance Co. Ltd and another, 2010 (10) SCC 567 (SC)
- 2) Narinder Singh Vs., New India Assurance Company Ltd. and

others, 2014 (4) RCR (civil) 272 (SC)

- 3) Komal Sharma and others Vs. National Insurance Company Limited and another, (CWP No. 10134 of 2016, decided on 12.7.2016).

He prays for setting aside the impugned order, by allowing the present writ petition.

Having heard learned counsel for the petitioner at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the argument advanced, this Court is of the considered opinion that since case of the petitioner-insurance company is based only on technicality, present writ petition is liable to be dismissed, for the following more than one reasons.

Learned counsel for the petitioner had nothing to argue on merits of the case and rightly so, it being a matter of record. It is not in dispute that vehicle of respondent No.1 was insured with the petitioner-insurance company. It is neither pleaded nor argued case on behalf of the petitioner that respondent No.1 defaulted in making the payment of premium at any point of time. Under this undisputed fact situation obtaining on record in the present case, the solitary argument raised on behalf of the petitioner is too technical to accept. It is the settled proposition of law that courts of law must make an endeavour to decide the *lis* between the parties on merits instead of technicality alone. It is also not the case of the petitioner that the insured-respondent No.1 caused delay in reporting the matter to the insurance company. In such a situation, petitioner-insurance company would not be entitled to repudiate the genuine claim of the insured only on technical ground.

During the course of hearing, when confronted as to what prejudice was caused to the petitioner-insurance company because of non registration of

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the vehicle of respondent No. 1 on permanent basis, learned counsel for the petitioner had no answer and rightly so, again it being a matter of record. Further, no patent illegality or perversity has been pointed out by learned counsel for the petitioner in the impugned order, which may warrant interference at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India.

Coming to the judgments relied upon by learned counsel for the petitioner, there is no dispute about the observations made therein. However, on close perusal of the cited judgments, none of them has been found of any help to the petitioner, being distinguishable on facts. It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundara Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

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 instant 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 abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

17.11.2016
Ak Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No