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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3319 of 2014 (O&M)
Date of decision:28.09.2016

Rajender ...Petitioner

Versus

Reliance General Insurance Company Limited and another ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Kuldeep Khandelwal, Advocate,
for the petitioner.

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Rakesh Kumar Jain, J.

The petitioner is aggrieved against the order dated 10.10.2013 passed by the Permanent Lok Adalat (Public Utility Services), Hisar (hereinafter referred to as the "Lok Adalat") by which application filed by the petitioner under Section 22-C of the Legal Services Authorities Act, 1987, has been dismissed.

In brief, the petitioner is the owner of a Maruti Esteem Car bearing registration No.HR-20-H-7991. The said vehicle was insured with the respondent-insurance company w.e.f. 14.12.2007 to 13.12.2008. The said vehicle was stolen on 09.10.2008. The petitioner lodged FIR No.745 dated 10.10.2008 under Section 379 IPC at Police Station City, Hisar and also informed the insurance company in this regard. The petitioner claimed the insured amount of ₹2,30,000/- but since the payment was not made,

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therefore, the application was filed before the Lok Adalat.

There is no dispute that the petitioner is the owner of the stolen vehicle which was admittedly insured with the respondent-insurance company and was stolen during the currency of the insurance policy. The claim of the petitioner has been rejected on the ground that the insurance company had demanded from the petitioner the final untraced report prepared by the police under Section 173 of the Code of Criminal Procedure, 1973 and the original two sets of key of the vehicle. It is alleged that the said documents were not submitted by the petitioner immediately rather there was a delay of 10 days and hence, the case of the petitioner was closed rightly by the insurance company.

Learned counsel for the petitioner has submitted that though the theft took place on 09.10.2008 and on the very next day i.e. 10.10.2008, the FIR was got registered by the petitioner and he also informed the insurance company, still the claim of the petitioner for the insured amount has been declined by the Lok Adalat only on the ground that there was a delay of 10 days in submitting the required documents.

I have heard learned counsel for the petitioner and perused the available record with his able assistance.

The aforesaid aspect of delay in intimation to the insurance company or submission of documents etc. has already been dealt with by this Court in the case of "**The Oriental Insurance Company Ltd. vs. M/s PS Logistics and another**, CWP No.17762 of 2016, decided on 02.09.2016 and held as under:-

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"As a matter of fact, the intimation to the police was given by respondent No.1 on the very next day i.e. 17.10.2013 but the FIR was registered after 11 days, which was beyond the control of respondent No.1 and the intimation was given to the Insurance Company after 22 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 application was given to the police of the Police Station Dharuhera, District Rewari on the next day of the incident i.e. 17.10.2013 as the theft took place on 16.10.2013 and it is the fault of the police who had taken 11 days to convert the application into the FIR, which was beyond the control of respondent No.1.

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 22 days i.e. 07.11.2013, 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."

In view of the aforesaid facts and circumstances, I am of the

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considered opinion that the impugned order passed by the Lok Adalat is totally illegal and is hereby set aside and the writ petition is allowed, directing the respondent-insurance company to pay the insured amount to the petitioner within a period of one month from the date of receipt of a certified copy of this order.

September 28, 2016 **(Rakesh Kumar Jain)**
vinod* **Judge**

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No