

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.7337 of 2016 (O&M)
Date of Order: 09.10.2017

New India Assurance Co. Ltd.

..Petitioner

Versus

M/s Avani Textiles Ltd. and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.C.Gupta, Advocate,
for the petitioner.

Mr. Tribhawan Singla, Advocate,
for respondent no.1.

ANIL KSHETARPAL, J (Oral)

The Insurance Company is in revision petition against the award passed by the Permanent Lok Adalat, Sangrur.

The respondent had filed an application before the Permanent Lok Adalat, Sangrur, for direction to the Insurance Company to pay the amount, as assessed by the Surveyor.

The Permanent Lok Adalat after considering the facts available on the file and the documents produced by the parties, held that the respondent is entitled to receive a sum of Rs.19,48,640/- as assessed by the Surveyor. The Permanent Lok Adalat also held that the amount shall carry interest @ 9% per annum. The respondent was also held entitled to Rs.50,000/- on account of mental agony and harassment and Rs.10,000/- as litigation costs.

Learned counsel for the Insurance Company has submitted that
in view of the judgment passed by the Hon'ble Supreme Court in the case of

United India Insurance Co. Ltd. v. Ajay Sinha and another, (2008) 7

SCC 454, that Permanent Lok Adalat would not have jurisdiction to adjudicate upon disputed questions of fact. He has further submitted that the Permanent Lok Adalat ought not to have awarded Rs.50,000/- on account of mental agony and harassment and Rs.10,000/- as litigation costs.

On the other hand, learned counsel for the respondent has pointed out that before the Permanent Lok Adalat, no objection was taken by the Insurance Company, questioning the jurisdiction of the Permanent Lok Adalat to adjudicate upon the issue. Hence, the Insurance Company cannot be permitted to raise such argument for the first time in this Court.

I have considered the submissions of learned counsel for the parties and with their able assistance gone through the record of the case.

The judgment passed by the Hon'ble Supreme Court is in the case of a theft. The Court has noticed that in view of the provision of Section 22-C, offences, which are non-compoundable under any law are excluded from the jurisdiction of the Permanent Lok Adalat. The present case is not a case of a theft. The cotton bales were being transported through a carrier. The cotton bales caught fire and got damaged. The respondent had insured the goods by a Marine Cargo Annual Turnover Policy. In these circumstances, the respondent lodged a claim. The Surveyor assessed the compensation as awarded by the Permanent Lok Adalat.

In my considered opinion, the judgment passed by the Hon'ble Supreme Court in the case of **United India Insurance Co. Ltd. (Supra)** would not be applicable in the facts of the present case.

Learned counsel for the Insurance Company has further

submitted that Surveyor had given remarks which proves that the condition of the Insurance has been violated. The remarks given by the Surveyor are extracted as under:-

“Cargo was loaded over truck up to the height of about 10 feet (two vertical bales at bottom and one horizontal bale stacked at top). Such cargo might have come in contact with the overhead live electric cables as a result spark emanated, seems to be caused fire. Over dimension cargo observed.”

The remarks given by the Surveyor have not been proved on the file. Still further, the remark of the surveyor is only on the basis of such assumption. On the basis of such assumption, the claim of the insured cannot be rejected.

Learned counsel for the petitioner has further submitted that the Permanent Lok Adalat ought not to have awarded the amount of Rs.50,000/- for mental agony and harassment and Rs.10,000/- as litigation costs.

Learned counsel for the respondent has no serious objection to the aforesaid argument.

While dismissing the revision petition, the order passed by the Permanent Lok Adalat, dated 11.08.2016, is modified and the compensation of Rs.50,000/- on account of mental agony and harassment and Rs.10,000/- as litigation costs shall stand deleted from the impugned award.

Revision petition is disposed of accordingly.

October 09, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No