

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

Civil Writ Petition No.17225 of 2011
Date of Decision: May 23, 2017

Reliance General Insurance Company Ltd., Gurgaon

...Petitioner

Versus

Permanent Lok Adalat Utility Services, Gurgaon & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Rajneesh Malhotra, Advocate,
for the petitioner.

Mr.Rakesh Dhiman, Advocate,
for respondent No.2.

AMIT RAWAL, J. (Oral)

Respondent No.2, the owner of the vehicle bearing registration No.HR-26-AG-7000, had got the vehicle insured with the petitioner-Insurance Company valid from 23.8.2007 to 22.8.2008. On 30.7.2008, the vehicle in question met with an accident. The Insurance Company appointed an Investigator and thereafter Shri Anil Juneja as Surveyor, who, vide his report dated 22.9.2008 (Annexure P-7), assessed the loss to the tune of Rs.1,33,000/- on repair basis. The value of the salvage was assessed to the tune of Rs.9,919/-.

The contentions of Mr.Rajneesh Malhotra, learned counsel for the petitioner by challenging the award of the Permanent Lok Adalat, before whom respondent No.2 had submitted an application for redressal of the grievance, have been on the following points:-

- a) Constituted members of the Permanent Lok Adalat are three, whereas the order has been signed by only one member, which is without jurisdiction;
- b) No conciliation proceedings, as per provisions of Section 22-C of the Legal Services Act (for short “the Act”), have taken place;
- c) Without placing on record the report of the Surveyor, the Permanent Lok Adalat could not have, deviated, to award Rs.2,26,494/- along with interest at the rate of 9% and, thus, the award is not sustainable in the eyes of law. The remedy, if any, for the owner/aggrieved party is to move the Civil Court;

Mr.Rakesh Dhiman, learned counsel appearing on behalf of respondent No.2 submits that the proceedings before the Permanent Lok Adalat are summary in nature. The factum of the vehicle being insured has not been denied, much less accident. The Surveyor's report cannot be treated as a whole as it has not been conducted in the presence of respondent No.2 and, thus, on the preponderance of the documentary evidence and the insurance cover, the Permanent Lok Adalat has awarded the compensation as respondent No.2 had undertaken to get the vehicle repaired at his own costs and after a difference of Rs.93,000/-, a sum of Rs.2,26,000/- has been awarded and, thus, prays for upholding the order.

I have heard the learned counsel for the parties and appraised the paper book.

Concededly, no conciliation proceedings have been done, which is totally in defiance to the provisions of Section 22(C) of the Act.

Non-conducting of the conciliation proceedings has already been held to be

null and void by the coordinate bench of this Court in **Vijay Pal Verma Versus Permanent Lok Adalat and others**, CWP No.11542 of 2015, decided on 5.8.2016, wherein while holding that unless and until such exercise of conciliation proceedings is not undertaken, there is no adherence to the provisions of sub-section 7 and and 8 of Section 22-C of the Act, this Court had given the following directions:-

“.....At this stage, I would like to add that since there is no provision of appeal provided in the Act against the award passed by the Lok Adalat under Sections 22C (7) and (8) of the Act and the only remedy provided is to invoke extraordinary jurisdiction of this Court under Article 226/227 of the Constitution, it is all the more reason for the Lok Adalat to deal with the application filed before it first as a conciliator and then as an adjudicator. The another factor for providing conciliation proceedings before the adjudicatory role to be exercised by the Lok Adalat is that the Lok Adalat was conceived in order to provide succor to a litigant, who has no financial capacity to take recourse to the regular Courts, by deciding their disputes by way of a settlement on the basis of conciliation which is found to be more expeditious and cost-effective.

In the case of National Insurance Company Ltd. vs. Om Parkash, 2012(4) Law Herald 3310, this Court had observed that the Lok Adalat did not record in its zimni orders that it had, at any stage, formed an opinion that there existed elements of a settlement which could be acceptable to the parties nor the terms of such possible settlement of dispute were formulated and given to the parties for their consideration and without complying with these requirements, the case was decided on merits, as a consequence thereof, the order of the Lok Adalat was set aside and remanded back to it.

Is it not the wastage of time of the Lok Adalat and of the High Court if the cases are remanded back to the Lok Adalat on this issue alone and is it not an unnecessary burden upon the poor litigant who takes up his remedy of approaching the Lok Adalat knowing fully well that the decision of the Lok Adalat on that dispute shall be final and binding upon the parties and the applicant would not have any right of appeal as it is provided only in case of a decision rendered by the regular Civil Court in which the unsuccessful party can file an appeal under Section 96 of the CPC for re-appreciation of evidence by the higher Court?

This unnecessary litigation can easily be avoided if the Lok Adalat,

dealing with an application filed under Section 22C of the Act, is sensitized to comply with the provisions of Section 22C(3) to (7) of the Act and reflect the said proceedings meticulously in its zimni orders so that in case of failure of conciliation and adjudication on merits by the Lok Adalat in terms of Section 22C(8) of the Act, the High Court, dealing with the order/award of the Lok Adalat, may concentrate only on the issue decided on merits on the appreciation of evidence as in the writ petition again, the party aggrieved against the award of the Lok Adalat used to challenge the award of the Lok Adalat not only on the legal grounds but also on the grounds of misreading and mis-appreciation of evidence. Thus, I need not to delve more into it as the question, which I am deciding herein, has already been decided by the other Courts as well but it is high time that the Lok Adalat(s) in the States of Punjab, Haryana and Union Territory, Chandigarh are to be advised by way of this judicial pronouncement to seriously resort to the conciliation proceedings before becoming an adjudicator on merits.

Thus, keeping in view the aforesaid discussion, the present writ petition are hereby allowed, award of the Lok Adalat is set aside and the cases are remanded back to the Lok Adalat to decide it again, strictly in accordance with law, as I have discussed here-in-above, i.e. resorting to its role of a conciliator before becoming an adjudicator. The parties are directed to appear before the Lok Adalat on 05.09.2016.

The Registry of this Court is also directed to circulate copy of this order to all the Lok Adalat(s) in the States of Punjab, Haryana and Union Territory, Chandigarh, for compliance.”

Even otherwise, as per the provisions of the Act, the Permanent Lok Adalat is consisted of three members, but only one member has signed the order. In my view, the order under challenge is without jurisdiction, but the fact remains that as per the report, which has not been challenged by other side, the Surveyor has assessed the compensation of Rs.1,33,000/-. It would be totally farcical exercise/wastage of time in case the complainant has to approach the Civil Court at this stage, particularly when the Surveyor assessed the compensation of Rs.1,33,000/-, but the Permanent Lok Adalat has not assigned any reasons for awarding compensation of Rs.2,26,496/-. If at all, there was a dispute with regard to

the report, the remedy if any lies with the Civil Court, much less not with the Consumer Court and the same can be belied by leading direct and cogent evidence. However, in view of the peculiar facts and circumstances of the case, I am of the view that since the complaint had been filed long time back and the matter is hanging fire in this Court since 2011, I deem it appropriate to reduce the amount of compensation to the amount as assessed by the Surveyor, i.e., Rs.1,33,000/- along with interest @ 9% per annum.

At this stage, it has been brought to the notice of this Court that vide order dated 14.10.2011, the petitioner was directed to deposit the entire amount as awarded by the Permanent Lok Adalat, which, according to the learned counsel for the petitioner, has been deposited vide Receipt No.16 dated 29.3.2012. Registry is directed to refund the same to the learned counsel counsel for the petitioner in accordance with law.

Writ petition stands allowed in the aforementioned terms.

May 23, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No