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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11390 of 2015 (O&M)
Date of decision:03.08.2017

National Insurance Company Ltd. …Petitioner

Versus

Aajam Khan and another ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Paul S. Saini, Advocate,
for the petitioner.

Respondent no.1 is *ex-parte.*

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Rakesh Kumar Jain, J.

This petition is filed against the order of the Permanent Lok Adalat (Public Utility Services), Gurgaon, 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 vehicle Make Mahindra Bolero car, bearing temporary No.RJ-02-Temp-116197, Engine No.GG71E47408, Chasis No.71E30290 and temporary registration number, for stock transfer from Mumbai to Jaipur stockyard, bearing No.MH02-A-TR-0288. The said vehicle was got insured by respondent no.1 with the National Insurance Co. Ltd. (petitioner herein) form 15.06.2007 upto 14.06.2008, after paying the premium of ₹16,673/-. The case of respondent no.1 was that the said vehicle was snatched/stolen from him after administering him intoxicant in sweetmeats on 09.07.2007 at about 4.30 pm, for which he lodged FIR No.475

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dated 10.07.2007, under Sections 328/379 IPC at Police Station City, Gurgaon and had also lodged the insurance claim with the petitioner-company. The police has though submitted the un-traced report which was filed in the Court of the Chief Judicial Magistrate, Gurgaon on 11.12.2007. Since the petitioner did not fulfill the promise of compensating the insured, therefore, respondent no.1 filed the application under Section 22-C of the Act.

The ground taken by the petitioner for declining the claim of respondent no.1 was that though the insured vehicle was stolen on 09.07.2007 but the intimation was given to the petitioner-company on 13.08.2007, therefore, there was delay, on account of which the petitioner-company is not liable.

However, the Permanent Lok Adalat allowed the application by observing that the ownership of respondent no.1 of the vehicle in question is not disputed and the FIR was registered promptly, i.e. on the very next day of the incident.

The argument of the petitioner is that respondent no.1 was not driving the vehicle in question with valid permit and intimation to the petitioner-company was given after the delay of about one month, therefore, the application was not maintainable.

Insofar as the permit is concerned, it is a case of theft and not of accident, therefore, the insurance company cannot take this plea and secondly the intimation was given by respondent no.1 to the police on the very next day i.e. on 10.07.2007 of the incident which occurred on 09.07.2007 at 4.30 p.m., therefore, there was no delay.

The only fact remains is that respondent no.1 intimated the

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petitioner-company on 13.08.2007 about the incident which took place on 09.07.2007.

In my considered opinion, had respondent no.1 not informed even to the police till 13.08.2007, then the matter would have been different and it could have been presumed that it is a cooked up story but the fact that the FIR was registered on the very next day leads to the conclusion that there was hardly any time for respondent no.1 to cook up a story in order to claim the insurance from the petitioner-company.

In view of the above, I do not find any merit in the present petition and hence, the same is hereby dismissed, though without any order as to costs.

August 03, 2017 **(Rakesh Kumar Jain)**
vinod* **Judge**

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No