

CWP No.17724 of 2017 (O&M)

[1]

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17724 of 2017 (O&M)
Date of decision:30.11.2017

National Insurance Co. Ltd.

...Petitioner

Versus

Suman Lata and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

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

Rakesh Kumar Jain, J. (Oral)

CM No.16271-CWP of 2017

Application is allowed as prayed for.

The document Annexure P-6 is taken on record.

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Counsel for the petitioner has submitted that in the accident dated 05.03.2012, Pardeep Kumar (insured), who was driving the motorcycle and Vijay Kumar who was the pillion rider died. An application for seeking compensation on the death of Vijay Kumar was filed before the Motor Accident Claims Tribunal, Panchkula, which was decided on 06.03.2014 and compensation was awarded to his heirs but the parents of Pardeep Kumar (insured) preferred to file an application under Section 22-C of the Legal Services Authority Act, 1987 (hereinafter referred to as the "Act") before the Permanent Lok Adalat (Public Utility Services), Ambala (hereinafter referred to as the "Permanent Lok Adalat"), which has been allowed.

Learned counsel for the petitioner has submitted that Pardeep

Kumar (insured) was holding a learner license whereas the pillion rider Vijay Kumar was not holding any license. In this regard, he has referred to the statement of Dilbag Singh and Savita wife of Dilbag Singh, which was allegedly made to the investigator of the Insurance Company, in which they had feigned ignorance about any driving license possessed by Vijay Kumar. He has submitted that Rule 3(1)(b) of the Central Motor Vehicles Rules, 1989 (hereinafter referred to as the "Rules") provides that if a person is holding a learner license, then such person shall be accompanied by an instructor holding an effective driving license to drive the vehicle and such instructor shall sit in such a position to control or stop the vehicle. It is submitted that since Vijay Kumar was not holding a valid driving license, therefore, Rule 3(1)(b) of the Rules is breached and has then referred to the condition provided in the policy that the person holding the learner license has to satisfy the requirement of Rule 3 of the Rules. It is further submitted that the accident was reported to the Insurance Company on 15.11.2012 and the application was filed before the Permanent Lok Adalat on 02.03.2015, i.e. after almost 2- ½ years, therefore, it is barred by limitation.

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

The Permanent Lok Adalat has allowed the application, *inter alia*, on the grounds that the deceased Pardeep Kumar was holding a valid learner license, which is not denied by the petitioner, and also that there is no limitation prescribed for filing the application under Section 22-C of the Act.

Counsel for the petitioner has failed to point out any provision of limitation for filing of any such kind of an application either from the Act or

from the Limitation Act, 1963. Insofar as the argument of the petitioner in respect of Rule 3(1)(b) of the Rules is concerned, no evidence has been brought on record by the petitioner except the alleged statement recorded by the petitioner through their investigator. Had that statement been produced on record, then the private respondents, i.e. parents of the deceased Pardeep Kumar, would have led some kind of evidence in order to deny or controvert the said statement/report.

It is anybody's guess as to whether the said statement, which is alleged to have been recorded by Dilbag Singh and Savita wife of Dilbag Singh, parents of Vijay Kumar is genuine or not.

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

November 30, 2017

(Rakesh Kumar Jain)

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Judge

Whether speaking / reasoned:	Yes/No
Whether Reportable:	Yes/No