IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.23361 of 2015
Date of decision:20.03.2017

Malkiat Singh ... Petitioner

Vs.

The Chairman, Permanent Lok Adalat,
Public Utility Services and another ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Satbir Gill, Advocate
for the petitioner.

Mr. Ram Avtar, Advocate
for respondent No.2.

AMIT RAWAL J. (Oral)

The petitioner is aggrieved of the impugned order dated 24.07.2015 (Annexure P-4), whereby, Permanent Lok Adalat has rejected the claim initiated under Section 22(c) of the Legal Services Authority Act, 1987 (hereinafter referred to as "1987 Act") despite the fact that the registered vehicle bearing registration number HRE-24 Q-0479 which was insured vide its policy No.00004640 for the period w.e.f. 23.03.2013 to 22.03.2014, while being driven by a friend of petitioner – Gurdial Singh son of Dalip Singh, was stolen on 01.07.2013.

Mr. Satbir Gill, learned counsel appearing on behalf of the petitioner submits that stand of the Insurance Company before the Lok Adalat was that the car was owned and possessed by Gurdial Singh, in essence, petitioner vide some arrangement had already sold the vehicle to Gurdial Singh but the fact remains that the aforementioned stand could not have been taken by the Insurance Company as Insurance Policy was in the name of registered owner, i.e., petitioner, therefore, the Insurance Company was liable to indemnify the owner as given in the insurance policy, thus, the order under challenge is not sustainable.

Per contra, Mr. Ram Avtar, learned counsel appearing on behalf of respondent No.2 -United India Insurance Company submits that there is candid admission of Gurdial Singh, purchaser, in his affidavit that two keys of the vehicle were in his possession. Even during investigation, Delta Detective Investigators has also recorded the statements of Malkiat Singh and Gurdial Singh. Copies of sale agreement dated 30.01.2013 and affidavit of Gurdial Singh have been attached as Annexure R-4 and Annexure R-5. The possession of the car was basically with Gurdial Singh vide some arrangement, therefore, the Insurance Company could not modify the clauses of the insurance policy. Since, the vehicle was hypothecated with financier and no dues certificate has not been obtained yet it continued to be in the name of the registered owner.

I have heard learned counsel for the parties, appraised the paper book and of the view that the order under challenge is not sustainable in the eyes of law. The fact remains that the insurance policy was in vogue/valid on the date of incident. Conceded position on record is that insurance policy aforementioned was valid w.e.f.23.03.2013 to 22.03.2014 under a package car policy which envisaged indemnification, in case of contingency including the theft. Once the contract between registered owner and Insurance Company was in existence, Insurance Company before Lok Adalat could not have taken the stand of having sold the vehicle to Gurdial Singh. The vehicle is already in the name of registered owner, the private arrangement, if any which has not been proved on record as the affidavit of private detecting agency has not seen the light of day so that the petitioner could have rebutted the same.

I am of the view that the Insurance Company is liable to indemnify the loss to the petitioner, i.e., insured *vis-a-vis* theft of the vehicle. Resultantly, the impugned order is set aside. Writ petition stands allowed. The Insurance Company is directed to honour the commitment regarding indemnification clause as per the terms and conditions of the policy with interest @ 9% per annum from the date of claim till today within a period of one month from the date of receipt of certified copy of this order, failing which interest @ 18% per annum shall entail.

(AMIT RAWAL)
JUDGE

March 20, 2017
savita

Whether Speaking/Reasoned Yes/No

Whether Reportable Yes/No