IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

108 **CWP-26444-2016.**
Decided on: January 16, 2017.

National Insurance Company Ltd.

.. Petitioner(s)

VERSUS

M/s Naveen Cargo Carrier and others

.. Respondent(s)

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CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

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PRESENT Mr.Sandeep Suri, Advocate,
for the petitioner.

M.M.S. BEDI, J. (ORAL)

Through the instant writ petition, the order dated 28.4.2014, Annexure P1, passed by Permanent Lok Adalat, Public Utility Services, Gurgaon, has been challenged vide which the claim of respondent no.1 seeking compensation of Rs.3,00,000/- on account of damages caused to vehicle No.HR-55-J-2054, in an accident on 23.8.2011, has been allowed.

It is not disputed that respondent had a valid insurance policy on the date of accident. The damage caused to the vehicle is also not in dispute. The only plea raised by the petitioner-insurance company before the Permanent Lok Adalat, was that there has been alteration in the consignment in which weight in Kgs has been altered to 2920 kgs. from 3504 kgs. just to play fraud.

Counsel for the petitioner has submitted that since the truck which met with an accident was loaded with 3504 Kgs. of the goods i.e. higher load than the prescribed capacity of 3400 kgs. the claim of the respondent has been allowed on the basis of "non-standard basis" as per the guidelines.

It is urged by the counsel for the petitioner that the claim of Rs.153173/- was approved subject to completion of formalities. The report of the Surveyor was also for the grant of compensation to the extent of Rs.2,12,897.

After hearing the counsel for the petitioner and going through the controversy involved in the case, it appears that the grievance of the petitioner is that against the entitlement of Rs.2,12,897/-, the claim of Rs.3 lac has been awarded despite the fact that the truck carrying goods weighed 104 kgs. above the prescribed load capacity of 3400 kgs.

I have heard the learned counsel for the petitioner. Since grant of insurance under the provision of law is a result of beneficial administration, it has to be construed liberally for the benefit of the insured.

Taking into consideration the contractual obligations and the Statute, Permanent Lok Adalat, Public Utility Services Gurgaon, has taken into consideration the report of the Surveyor and the claim of the insurance company and awarded sum of Rs.3 lac as compensation by passing the following order: -

> *"3 Respondent filed reply and contested the present application on the ground that the application is not maintainable. The applicant has concealed material*

facts and he has committed fraud. It is submitted that at the time of alleged accident the truck was loaded with 3504 kgs. of goods i.e. higher load than its prescribed capacity i.e. the carrying capacity of vehicle is 3400 kgs. and truck was loaded with goods of 3504 kgs. It is also submitted tat the answering respondent has appointed qualified and independent Surveyor governed by IRDA who submitted his report and assessed the amount i.e. Rs.2,12,897/-. It is also submitted that this Court cannot decide the case and the applicant has not come to the Court with clean hands. The application is liable to be dismissed.

4 Repeated efforts were made for conciliation but the same was not effected. So we have heard learned counsel for the parties and have gone through the pleadings and the documents. According to the very report of the surveyor which is marked as A, load carrying capacity of the vehicle is 3400 KG. According to the version of the respondent, the truck was loaded with goods 3504 kgs weight. Thus, in other words, 104 KG goods were overloaded. Learned counsel for the respondent has cited before us order passed by Hon'ble State Consumer Disputes Redressal Commission, Haryana, in First Appeal No.3341 of 2004 having title New India Ass. Company Vs. Panna Lal, in support of his contentions that there is violation of the terms and conditions of the insurance policy and the applicant is not entitled to any claim. It is also submitted that in the document copy of which is marked as B, 3504, Kg weight is mentioned but there is overwriting in the documents copy of which is marked as C but in our considered opinion there is no

> *such plea of making cutting in the document taken by the respondent in the reply filed regarding the alleged cutting. At the most here is only extra loading of goods having weight 104 KG. Learned counsel for the applicant has made statement to this effect that the applicant only claims a sum of Rs.3,00,000/- and does not claim a sum of Rs.22,749/-. This statement of the applicant is just and reasonable one. Total rejection of the claim of the applicant is not made out."*

I do not find any infirmity in the order passed by the Permanent Lok Adalat, Public Utility Services, Gurgaon, while determining the claim of complainant-respondent.

No ground is made out for interference.

The writ petition is dismissed.

(M.M.S. BEDI)
JUDGE

January 16, 2017.
rka

Whether speaking / reasoned Yes / No
Whether reportable: Yes / No