

CWP-26704-2016 (O&M)

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

**CWP-26704-2016 (O&M).
Decided on: March 22, 2017.**

SBI General Insurance Co. Ltd.

.. Petitioner(s)

VERSUS

The Insurance Ombudsman and another

.. Respondent(s)

*** * ***

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

*** * ***

**PRESENT Mr.H.P.S.Ghuman, Advocate,
for the petitioner.**

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

Misc. application CM-4186-CWP-2017 is allowed.

Documents Annexures P3 to P5, are permitted to be taken on record.

Petitioner is a general insurance company which is aggrieved by award dated 25.10.2016, passed by the Insurance Ombudsman granting a sum of Rs.3,60,336/- to the insured-respondent No.2 towards full and final settlement on account of insured vehicle having met with an accident

Counsel for the petitioner has submitted that the Insurance Ombudsman has exceeded its jurisdiction and acquired the status of a civil Court and has exercised the jurisdiction beyond the powers of a civil Court. It is alleged that Insurance Ombudsman has not fairly adjudicated upon the claim of the insured, respondent No.2 Amarjit Singh

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as there was sufficient material brought to the notice of the Insurance Ombudsman that the insured vehicle was not being used by the insured person and that the vehicle was being used for rental purposes by Harjit Singh son of Jaspal Singh to whom the possession had been delivered pursuant to the sale made by insured Amarjit Singh. One Amarjit Singh owner of Victoria Car Rental Private Limited, New Delhi, has made a statement to the Investigator of the petitioner company on 26.5.2015 to the effect that Harjit Singh was working as Maintenance Manager with his organisation since 2012 and the car was being driven by his driver Ranjit Singh at the time of the accident.

In view of said circumstances, it is claimed by the counsel for the petitioner that the award of insurance amount has been wrongly given by the Insurance Ombudsman.

I have heard the counsel for the petitioner and carefully gone through the order passed by the Insurance Ombudsman who has got jurisdiction to determine the controversy on the basis of the rival claims raised by the insurer and the insured.

The pleas raised by the petitioner-insurance company have been considered objectively by the Insurance Ombudsman and while rejecting the contention, respondent no.1 has adopted equitable reasoning to the effect that there is no proof regarding sale of the vehicle by the claimant to Harjit Singh one year prior to the date of accident as claimed by the insurer. The report of the Investigator of the insurance company has also been taken into consideration to arrive at a conclusion that the vehicle registered as a private car was being used legally and that the plea of the

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insurance company was not sustainable. The statement of Harjit Singh recorded by M/s Royal Associates who was deputed to investigate the claim has also been taken into consideration. The plea regarding the vehicle having been used as a Taxi by any unauthorised person has not been established by any documentary evidence.

I have considered the contentions of the learned counsel for the petitioner and I am of the opinion that the insurance of the vehicle at the time of accident was valid from 18.6.2014 to 17.6.2015 whereas the accident had taken place on 1.5.2015. The vehicle was not being driven by any person who was not authorised to drive the vehicle.

In view of said circumstances, I do not find any ground to interfere in the order passed by the Insurance Ombudsman who has got jurisdiction under the Redressal of Public Grievances Rules, 1998, framed under Section 114 (1) of the Insurance Act, to determine the controversy like the one arisen in the present petition.

At this stage, counsel for the petitioner submits that the insurance company still wants to approach the civil Court for adjudication of disputed questions of fact.

No opinion is expressed regarding the said right. If the petitioner has got any statutory right to approach any forum, this Court does not have any jurisdiction to curtail said right.

The writ petition is dismissed.

(M.M.S. BEDI)
JUDGE

March 22, 2017.

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Whether speaking / reasoned
Whether reportable:

Yes / No
Yes / No