

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.5594 of 2015
Date of Decision: March 27, 2017

The Oriental Insurance Co.Ltd., Patiala & another

...Petitioners

Versus

Gurvinder Singh & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Raj Kumar Bashamboo, Advocate,
for the petitioners.

Ms.Sonia G.Singh, Advocate,
for respondent No.1.

AMIT RAWAL, J. (Oral)

The petitioner-Insurance company is aggrieved of the impugned order dated 1.11.2014 (Annexure P-9) passed by the Permanent Lok Adalat (Public Utility Services), Patiala, whereby the petitioner has been directed to make payment of insured amount of Rs.1,76,600/- along with interest @ 9% from the date of filing of the claim till its realisation.

Mr.Raj Kumar Bashamboo, learned counsel for the petitioner submits that the petitioner company insured the Auto Rickshaw of respondent No.1 for a total sum of Rs.1,76,600/- and issued cover note No.640178 Ex.A2, for the period from 21.11.2012 till 20.11.2013 against premium of Rs.5730/-. The said vehicle allegedly caught fire on 18.9.2013. The stand of the Insurance Company is that the private registration number of the vehicle is valid. However, respondent No.1 failed to place on record any application to establish that he had moved an application for obtaining

the new registration as per the provisions of Section 43 of the Motor Vehicles Act, 1994 as amended. The aforementioned factum is reflected from order dated 1.11.2014 (Annexure P-9), which reads thus:-

“Before conciliation proceedings were held, the parties were directed to produce their respective evidence as they had not done so along with the pleadings as per the provisions of the act. Accordingly the applicant produced his affidavit Ex-AW1/A, copy of bill Ex-A1, copy of motor vehicle insurance cover note Ex-A2, copy of driving license Ex-A3, copy of DDR Ex-A4, copy of fire report Ex-A5, copy of estimate Ex-A6 and copy of letter dated 18.12.2013 Ex-A7. Whereas the respondents produced affidavit of A.S.Dhingra Ex-RW1/A, affidavit of Sh.K.K.Singhi Ex-RW2/A, copy of letter dated 25.10.2013 Ex-R1, copy of insurance policy Ex-R2, copy of survey report Ex-E3, copy of survey report of Sh.K.K.Singh Ex-R4 and copy of driving license verification report Ex-R5.”

It does not prove of having submitted any application. It is primarily a disputed question of law. The remedy was to go to the Civil Court. In support of his contention, relies upon the ratio decidendi culled out by the Hon'ble Supreme Court in **Narinder Singh Versus New India Assurance Company Ltd.and others,** 2014 (4) R.C.R. (Civil) 272, wherein it has been held that if a person has not moved an application for obtaining the new registration or extension of temporary registration, the vehicle would be deemed to be plying without registration number, though the insurance cover note was valid, but the rigours of Section 39 of 1994 Act cannot be ignored in view of the fact that no person under the Act shall drive motor vehicle on any public place without any registration. Thus, the consequential effect would be that plying of the vehicle was impermissible, therefore, according to Mr. Bashamboo, it was breach of the terms and

conditions of the insurance policy.

Ms.Sonia G. Singh, learned counsel for respondent No.1 submits that the insured may have applied for this. Order under challenge does not call for interference as writ petition does not fall under parameters of judicial review.

I have heard the learned counsel for the parties and appraised the paper book.

Without delving upon the merits of the case, the fact remains that until and unless the entire material is placed by leading detailed evidence, the Lok Adalat could not have passed the order against the insurance company summarily, in essence should not have invoked the provisions of sub-section (8) of Section 22 of 1987 Act.

If at all any cause of action survives in favour of respondent No.1, he would be at liberty to seek the remedy of civil suit. For the time being, the order of the Lok Adalat, in view of the aforementioned discussion, is not sustainable and is hereby set-aside.

Writ petition in the aforesaid terms stands allowed.

March 27, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No