

In the High Court of Punjab and Haryana, at Chandigarh

Letters Patent Appeal No. 2530 of 2016 (O&M)

Date of Decision: 09.01.2017

Iffco Tokio General Insurance Co. Ltd.

... Appellant(s)

Versus

Rajbir Singh and Another

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Mahesh Grover.
Hon'ble Mr. Justice Shekher Dhawan.**

Present: Mr. Yogesh Gupta, Advocate
for the appellant.

Mahesh Grover, J.

This appeal is directed against the judgment of learned Single Judge dated 22.11.2016.

The appellant insurance company disputes the liability towards the insured to compensate the loss of his vehicle on the ground that the insured had not taken adequate care to prevent its theft.

It is contended before us as it was before the writ Court that duty was cast upon the insured to protect his vehicle from theft by taking safety measures. Learned Single Judge has noticed that the Lok Adalat, who passed the award in the first instance, had observed that the insured had kept the key hidden in a safe place when he parked the truck in a locked condition in Transport Nagar and construed it to be adequate safety measures warranted of a prudent man.

Learned counsel for the appellant strenuously argued that this

was not sufficient and the insurance company would be justified in repudiating the claim of the insured as on this ground, particularly with reference to the terms of the policy.

To our persistent question as to whether such a clause existed in the policy, learned counsel for the appellant, even though replied in affirmative, failed to show anything from the record or from the policy that a condition was cast upon the insured to safeguard the vehicle against theft by taking steps more than what is expected of a prudent person and in the event of not doing so, the entire claim would stand repudiated. In any eventuality, the argument of learned counsel for the appellant, even if accepted, would not be a ground to repudiate the entire claim of the insured. The fact that the truck was in a locked condition and parked in Transport Nagar is sufficient to conclude that adequate safety measures were indeed in place, assuming that this was the requirement of the policy, which in any case, is not borne out from the material on record. We find the whole plea of the insurance company suffers from dishonesty, which is further fortified by the fact that even though the vehicle was insured for a sum of ₹ 19,50,000/- and the claim of only ₹ 14,62,500/- was awarded.

The insurance company, having once entered into a contract with the insured, cannot be permitted to wriggle out of its liability on such frivolous pleas that have been raised before us or before the Writ Court. We, therefore, find the appeal to be totally without merit and decline interference.

When the matter was argued before us earlier in the day, we made it clear to the appellant that we intend to dismiss the appeal with punitive costs whereafter the learned counsel for the appellant prayed for

some time to seek instructions as to whether he could withdraw the appeal. Having been granted a pass over and the matter being called out twice thereafter, we have been constrained to pass this order and therefore, we impose the costs of ₹ 1,00,000/- on the insurance company, which shall be compensatory to the insured-respondent No.1.

Appeal stands dismissed.

(Mahesh Grover)
Judge

(Shekher Dhawan)
Judge

January 09, 2017

“DK”

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