IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-12001 of 2019 (O&M)
Date of decision:- 23.07.2019

National Insurance Company Ltd.

.......petitioner

Versus

Permanent Lok Adalat & another

........Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Ms. Anamika Mehra, Advocate for the petitioner.

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<u>TEJINDER SINGH DHINDSA J.</u>

Petitioner, National Insurance Company Limited has filed the instant petition assailing the award dated 16.11.2018 passed by the Permanent Lok Adalat (Public Utility Services) Rupnagar (Annexure P-3).

Briefly, it may be noticed that respondent No.2 herein filed an application under Section 22-C of the Legal Services Authority Act 1987, raising a claim to be granted compensation of Rs.4,00,000/- alongwith interest @ 18% per annum, on account of loss/damage of a Nissan Sunny Car bearing Registration No.PB-12-P-4866. A sum of Rs.1,00,000/- was further claimed as compensation for mental agony/harassment and Rs.50,000/- towards litigation expenses. Vide impugned award Permanent Lok Adalat has directed the petitioner-Insurance Company to pay to the applicant/respondent No.2 Rs.4,00,000/- towards claim for the damaged vehicle and the wreckage is to be owned by the Insurance Company. Rs. 20,000/- has been awarded as compensation for harassment. Rs.5,000/- has been awarded as litigation expenses. Interest @ 12% per annum has been granted on the afore-noticed amounts from the date of filing of the application under Section 22-C and till realization of the same.

Counsel for the petitioner company submits that respondent No.2 had got his Nissan Sunny XL Diesel car insured carrying IDV of Rs.4,00,000/- for the period 18.01.2017 to 17.01.2018. The car is stated to have met with an accident on 31.05.2017. Petitioner company deputed Sh. Ravinder Kumar Goyal, as surveyor and loss assessor to assess the loss of the damaged vehicle. Counsel submits that the surveyor submitted an interim report on 07.09.2017 and final report on 20.12.2017 and in terms of such report, the surveyor had recommended the settlement in the following terms:-

On repair Basis	=	*Rs.3,28,000/- (After deducting salvage and excess clause)*
On net off salvage with RC	=	*Rs.2,57,000/- (After deducting wreck value with RC Rs.1,42,000/- and excess clause Rs.1000/-)*
On net off salvage without RC	=	*Rs.3,16,000/- (After deducting wreck value without RC Rs.83,000/- and excess clause Rs.1000/-)*

It is contended that the recommendations of the surveyor were accepted by the competent authority of the Company for settlement on the basis of net off salvage basis with RC i.e. Rs.2,57,000/- (After deducting wreckage value with RC Rs.1,42,000/- and excess clause Rs.1,000/-).

The precise submission raised by counsel is that the respondent had been non-cooperative and did not supply the requisite documents to the petitioner company and on account of which the claim money had not been released. In such regard heavy reliance has been placed upon a letter dated 01.01.2018 that had been issued by the petitioner-company to respondent

No.2 calling upon him to provide the following documents:-

(i) KYC document i.e.PAN Card and Aadhar Card;

(ii) Death Certificate(s);

(iii) Treatment papers of injured person, if any;

(iv) Cancelled cheque;

(v) Insured consent on affidavit regarding mode of settlement and claim amount as the claim is to be settled on Net Off Salvage with RC basis

(vi) Original Policy Copy.

It is vehemently contended that since the insured/respondent No.2 has failed to complete formalities as such there is no deficiency of services on the part of the Insurance Company.

It has further been urged that the non-issuance of any repudiation letter to the respondent would itself indicate that the petitioner company was ready and willing to settle the claim. Counsel argues that such aspect has been completely overlooked by the Permanent Lok Adalat and the impugned award that has been passed is patently unjust and unfair.

Having heard counsel at length and having perused the pleadings on record, this Court is of the considered view that no intervention in the matter is warranted.

Policy having been issued by the petitioner-Insurance Company to the private respondent for the car in question carrying a validity period from 18.01.2017 to 17.01.2018 is not in dispute. Accident is stated to have occurred on 31.05.2017. No circumstances have been brought forth to explain the delay at the hands of the surveyor in having submitted the interim report on 07.09.2017 and thereafter the final report on 20.12.2017. It is not even clear whether the petitioner-Insurance company had deputed the surveyor immediately upon receipt of the information as regards accident involving the insured car. In the instant petition an attempt has been made to attribute delay to respondent No.2 by averring that even though the accident had occurred on 31.05.2017 but the respondent/claimant had informed the Insurance Company only on 31.07.2017. Such stand is patently false. The reply that had been filed by the Insurance Company to the application preferred by the Claimant under Section 22 (C) of the Act has been placed on record at Annexure P-2. Perusal of the same reveals that it was admitted by the National Insurance company Limited before the Permanent Lok Adalat that the claimant had intimated with regard to the damage caused to the vehicle on account of the accident on 31.05.2017 itself. As such there was no delay on the part of the claimant and yet the interim report as also final report has been submitted by the Surveyor quite belatedly. Admittedly, claim of respondent No.2 has never been repudiated by the petitioner company. Yet at the same time the claim was not settled and released. Hands of the claimant were forced in taking resort to his remedy under the Legal Services Authorities Act. The application under Section 22-C of the Act was presented on 15.11.2017 and the petitioner company had put in appearance before the Permanent Lok Adalat on 26.12.2017. The letter on which reliance has been placed by counsel to contend that it was the claimant who was not cooperating and not submitting the requisite documents was issued subsequent in point of time i.e. on 01.01.2018. The Permanent Lok Adalat, has rightfully used the expression that such letter was an ***"afterthought"***. Even otherwise most of the documents mentioned in the letter dated 01.01.2018 were not even relevant to the claim that had been lodged. Even during the course of hearing in the instant writ petition, counsel has not been able to demonstrate the relevance of the death certificate or the treatment papers of any injured person that were sought for vide communication dated 01.01.2018. Strangely, the petitioner-company was even calling upon the claimant to produce copy of the original policy. This can only be seen as an attempt on the part of the petitioner company to delay the matter and to scuttle the claim. Copy of the policy was very much in the records of the petitioner-company and in any case there was no dispute with regard to the vehicle in question having been insured and the policy being valid upto 17.01.2018.

Under such circumstances, the Permanent Lok Adalat has rightfully awarded the IDV value of the vehicle i.e. Rs.4,00,000/- and Rs.20,000/- for harassment caused to the claimant. Even the amount of Rs.5,000/- awarded towards costs of litigation cannot be termed as unreasonable.

There is no merit in the writ petition.

Dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

23.07.2019
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No