

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

203

CWP No.24079 of 2011 (O&M)

Date of Decision: July 25, 2019

Reliance General Insurance Company Limited

Petitioner(s)

versus

Sh. Prithvi Singh Yadav and another

Respondent(s)

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Tajender K Joshi, Advocate
for the petitioner(s).

Mr. Gaurav Aggarwal, Advocate
for respondent No.1.

ARUN MONGA, J (Oral)

Impugned herein is an award rendered by Permanent Lok Adalat, whereby the claim of the insured on account of damage to his vehicle caused by the accident that took place on 10.05.2010, has been allowed by directing the Insurance Company to pay an additional amount of Rs.98,080/- over and above the amount already paid, along with interest at the rate of 9% per annum from the date of institution of the claim petition till the actual date of payment.

2. The factual matrix of the case is not in dispute except the report of Surveyor wherein he has opined that the insured/applicant was not entitled to entire damages claimed, as certain repairs/replacement of the parts was not on account of

the accident but pre-existed. Neither the accident nor even the cause of the accident has been disputed by the Insurance Company.

3. Pursuant to the intimation of the accident, a surveyor was deputed to submit his report. He agreed with all the other damages except damage to the windscreen, bulk head and A.C. condenser in his report. He opined that there was no damage to these parts in accident and if there was any damage that was pre-existing. However, the surveyor did not dispute the amount of Rs.1,93,760/- paid by respondent for getting his car repaired. After deducing the amount spent towards windscreen, bulk head and A.C. condenser with applied formula of depreciation @ 35% as per **GR 9**, the applicant was paid an amount of Rs.95,630/-.

For ready reference, GR-9 is reproduced hereinbelow:-

“GR.9- Depreciation of parts for Partial Loss Claims

The following rates of depreciation shall apply for replacement of parts for partial loss claims in respect of all categories of vehicles/accessories.

- 1. Rate of depreciation for all rubber nylon/plastic parts, tyres and tubes, batteries and air bags 50%*
- 2. Rate of depreciation for all fibre glass components 30%*
- 3. Rate of depreciation for all parts made of glass Nil*
- 4. Rate of depreciation for all other parts including wooden parts is to be as per the following schedule:*

<i>AGE OF THE VEHICLE</i>	<i>% OF DEPRECIATION</i>
<i>Not exceeding 6 months</i>	<i>Nil</i>
<i>Exceeding 6 months but not exceeding 1 year</i>	<i>5%</i>
<i>Exceeding 1 year not exceeding 2 years</i>	<i>10%</i>
<i>Exceeding 2 years not exceeding 3years</i>	<i>15%</i>

<i>Exceeding 3 year not exceeding 4 years</i>	<i>25%</i>
<i>Exceeding 4 years not exceeding 5 years</i>	<i>35%</i>
<i>Exceeding 5 years not exceeding 10 years</i>	<i>40%</i>
<i>Exceeding 10 years</i>	<i>50%</i>

4. Having heard learned counsel for the parties and gone through the relevant pleadings and the appended record, I am of the opinion that the learned Permanent Lok Adalat has rightly opined that the Surveyor has submitted incorrect report that the damage to Windscreen, bulk head and A.C. condenser was not caused due to the accident. The said finding cannot be interfered with. Once it is established that vehicle had met with an accident and the damage was caused pursuant to the accident and the applicant/insured had spent money in getting the vehicle repaired, the Insurance Company ought to have given the benefit of the insurance policy by applying the formula as per GR-9, *ibid*.

5. Permanent Lok Adalat has awarded the entire balance claim of Rs.98,080/- besides Rs.95,630/- already paid by petitioner after deducting Rs.95,630/-. In the given circumstances, the award is modified to the extent that applicant/insured shall be entitled to get the amount of the money spent by him for getting the car repaired as per the original bills, as noted by the Permanent Lok Adalat, which comes to Rs.1,93,760/- after deduction of 35% of depreciation.

6. The impugned award is accordingly modified and the petitioner is directed to reimburse the balance of the amount by re-calculating the compensation as per GR-9.

7. Disposed of in above terms.

8. Learned counsel for the petitioner points out that amount of Rs.1,06,351/- has been lying deposited with this Court. In that view of the matter,

after the necessary calculation are carried out by the petitioner-Company, the same be intimated to respondent No.1 and the Registry. In accordance with the said intimation, Registry is directed to disburse the amount to the respondent No.1.

July 25, 2019
sonia arora

[ARUN MONGA]
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No