IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.25094 of 2019 (O&M)
Date of Decision:19.09.2019

Bharti AXA General Insurance Company Limited and another
.......Petitioners

Versus

Permanent Lok Adalat and others

......Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Sanjeev Goyal, Advocate for the petitioners.

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TEJINDER SINGH DHINDSA J.

The petitioner-Insurance Company has filed the instant petition assailing the award dated 27.06.2018 passed by the Permanent Lok Adalat (Public Utility Services), UT Chandigarh and whereby a sum of Rs.6,50,000/- alongwith interest @ 9% w.e.f. 06.02.2017 i.e. the date when the claim was repudiated till realization has been directed to be paid to respondent No.2. In addition thereto a sum of Rs.15,000/- for mental agony and Rs.5,000/- as litigation costs, has also been awarded.

Suffice it to notice that the application under Section 22 (C) of the Legal Services Authorities Act 1987, had been filed in relation to theft of a car bearing Registration No.CH-01-AL-0625 that took place on 13.04.2016.

Counsel for the Insurance Company has submitted that even though respondent No.2 had produced the registration papers of the insured vehicle reflecting ownership in his name yet the facts and circumstances of the case would establish that the car had been given for use to respondent No.3 for all intents and purposes. Even the FIR had been lodged by respondent No.3. It is contended that respondent No.2 as such had given up his insured interest in the insured vehicle by making respondent No.3 the actual owner of the stolen vehicle and since respondent No.3 did not have the policy of insurance in her name the impugned award cannot sustain.

The second submission raised by counsel is that as per contents of the FIR the keys of the vehicle had been left by respondent No.3 in an unattended tray at the reception of respondent No.4-Gym. By doing so respondent No.3 had virtually facilitated the thief to steal the vehicle. It was the negligence of respondent No.4-Gym as no reasonable measures had been taken to keep the keys of the insured vehicle safe. It is argued that the liability to compensate the registered owner under said circumstances ought to have been fastened on respondent No.4-Gym by invoking the principle of bailment enshrined under the Indian Contract Act 1872.

Counsel for the petitioners has been heard at length and the pleadings on record have been perused.

At the very outset it is observed that the submission raised as regards respondent No.2 having given up his insured interest in the vehicle is preposterous. It has not been disputed that respondent No.2 was the registered owner of the vehicle. The vehicle had been insured with the petitioner-Insurance company for the period commencing from 21.12.2015 to 20.12.2016. The theft of the vehicle has taken place from outside of a Gym located in Sector-8, Chandigarh on 13.04.2016. The FIR was registered without any delay and intimation was even given to the petitioner-Insurance company on the very next day i.e.14.04.2016. Even the registering and licensing authority UT Chandigarh, was duly informed on 18.04.2016. Untraced report in respect of the FIR had been submitted and the concerned magistrate accepted the same on 12.09.2016. Merely for the reason that the vehicle was being used on the date of theft by an authorized person i.e. respondent No.3 cannot lead to the conclusion that respondent No.2 had lost his insured interest in the vehicle. Contention to such effect by counsel is not even supported by any term and condition of the contract of insurance. The submission as such is without merit and is rejected.

With regard to the liability to be thrust upon respondent No.4-Gym, the Permanent Lok Adalat has rightfully placed reliance upon the decision of the National Consumer Disputes Redressal Commission in **Reliance General Insurance Company Limited Versus Sharwan Chhajer 2016 (3) CLT 81,** to take a view that the claim that had been lodged by respondent No.2 before the Permanent Lok Adalat did not arise out of any contractual liability between him and the Gym. Furthermore, nothing would prevent the petitioner-Insurance Company from reimbursing the complainant/respondent No.2 and then if so advised to take out appropriate proceedings in accordance with law to claim the said amount from respondent No.4-Gym towards enforcement of the alleged lability of the Bailee under the provisions of the Contract Act.

Perusal of the impugned award dated 27.06.2018 (Annexure P-1) would show that such liberty has already been granted to the petitioner-Insurance company.

There is no infirmity in the impugned award.

Writ petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

September 19, 2019
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No