

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-26936-2014

Reserved on 15.07.2019.

Pronounced on 05.08.2019.

HDFC Ergo General Insurance Company Ltd.

... Petitioner

vs.

Janu and Anr.

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sandeep Suri, Advocate, for the petitioner.

Mr. Ashish Gupta, Advocate,
for respondent for respondent No.1.

ARUN MONGA, J.

Challenge herein is to an order dated 15.11.2013 (Annexure P-

1) passed by Permanent Lok Adalat, Gurgaon, whereby, petitioner-Insurance Company has been directed to pay Rs.2 lacs to the insured in respect of an insurance claim arising out of damage to a vehicle (Truck) bearing registration No. HR-27J/0412 owned by respondent No.1 which met with an accident on 06.05.2012 when, while trying to save an animal, vehicle is stated to have turned turtle. At the relevant time, the driver of the vehicle, namely, Salim, who is the son of the insured/the claimant was driving the truck from Rajasthan to Bihar and it was loaded with 'Putty' of Asian company. Owing to the vehicle having turned ups and down, it got totally damaged. Intimation was given to the surveyor and the report thereof was prepared leading to lodging of the claim. However, the petitioner-Insurance Company paid only a sum of Rs. 1,67,700/- and owing to which, the insured/claimant preferred a claim before the Permanent Lok Adalat.

2. I have heard rival contentions of learned counsels appearing for respective parties.

3. For the reasons stated hereinafter, I am of the opinion the writ petition is devoid of any merit and the same deserves to be dismissed.

4. Learned counsel for the petitioner submits that the Insurance Company paid the amount as per the Surveyor's report and, therefore, the Permanent Lok Adalat committed a material irregularity in going beyond the report of the Surveyor while allowing an amount of Rs.2 lacs, that too based on photocopied bills submitted by the claimant.

5. Learned counsel for the petitioner further submits that even the bills submitted by the claimant were spread over a year. He further contends that the Permanent Lok Adalat itself noted in its award that there is likelihood that bills of excess amount might have been obtained and yet the said bills have been relied upon while awarding the additional claim to the claimant.

6. Learned counsel for the petitioner also relies on judgment tiled as **Reliance General Insurance Company Ltd. Vs. Vijay Kumar and another**, reported as **2012 (1) PLR 794** to contend that the Permanent Lok Adalat could not have decided the case on merits without narrowing down the scope of dispute between the parties before it. He further relies on a judgment tiled as **Vijay Pal Verma vs. Permanent Lok Adalat and others**, reported as **2017(1) PLR, 311** to contend that unless the parties are given an opportunity for conciliation by the Permanent Lok Adalat and the same fails and, thereafter, a specific proposal is mooted, the Permanent Lok Adalat could not have entered into the merits of the case.

7. Lastly, learned counsel for the petitioner relies on a judgment titled as **Neebha Kapoor vs. Jayantilal Khandwala and others**, reported as **AIR, 2008 Supreme Court 1117** to submit that the Permanent Lok Adalat

decides the case by way of a summary trial before it and could not have relied on photocopy of the bills and, therefore, the reliance placed by Permanent Lok Adalat on the bills submitted by the claimant is totally misplaced and on that ground alone, the award is liable to be set aside.

8. Per contra, learned counsel appearing for respondent No.1/claimant submits that there is no illegality in the impugned award passed by the Permanent Lok Adalat and the same has been passed on cogent reasoning and after proper appreciation of the evidence adduced before it. He seeks dismissal of the writ petition.

9. Adverting to the argument regarding photocopy of the bills, I am of the opinion that original of all the said bills were submitted before the Surveyor and the same have been discussed by the Surveyor in his report while discarding the same. The necessity of proving/producing the original bills arises only if the same are disputed on the ground of being fabricated. There is neither any allegation of the kind nor even otherwise there is anything mentioned by the Surveyor in his report that the said bills are not qua the repairs of the vehicle in question. The original bills being with the Surveyor/Insurance Company, the claimant, naturally, was not in a position to produce the same before the Permanent Lok Adalat and submitted the photocopies of the same.

10. Reliance may be had on a judgment rendered by this Court in **Reliance General Insurance Company Limited vs. Permanent Lok Adalat Utility Services and another**, reported as **2013 (4) RCR (Civil), 711**, wherein, my learned brother Rameshwar Singh Malik, J (as he then was) opined as below:

“A perusal of the surveyor's report will show that surveyor has assessed the loss @ ₹ 51,428.25/-. Thus, it

becomes clear that the petitioner-insurance company did not dispute its liability. The only dispute raised by the insurance company was about the quantum. Since the petitioner-insurance company did not dispute the claim as bogus or frivolous, the Permanent Lok Adalat was having the jurisdiction to entertain and decide the claim on merits, after the parties failed to come at an amicable settlement. The relevant observations made by this Court in this regard, in Reliance General Insurance Company's case (supra), read as under :-

24. Before parting with the judgment I would like to summarise as under :-

If reference is made to the Lok Adalat under Section 20 of the Act, Lok Adalat without using any coercion or undue pressure by applying the principle of natural justice, equity, persuade the parties to reach to an amicable settlement. If settlement is arrived at Lok Adalat shall pass award accordingly. However, if parties do not reach to the final settlement despite of best efforts of the Lok Adalat to explore the possibility of settlement, Lok Adalat shall have no option except to return the reference to the Court wherefrom it was received.

25. If PLA PUS is approached under Section 22C at the pre-litigation stage in relation of public utility services and other party disputes the claim saying claim is bogus and case involves disputed questions of facts and law and cannot be settled by the intervention of the PLA PUS then conciliation proceedings shall stand terminated and PLA PUC shall have absolutely no jurisdiction to invoke Section 22C(8) to decide the dispute directly. However, if during the conciliation proceedings under sub-sections (4), (5), (6) and (7) of Section 22C parties to the application have narrowed down their disputes and are not able to come to the final figure then by invoking sub-section (8) PLA PUS can decide the differences by applying principles of fair play, equity, natural justice, objectivity as provided under Section 22D of the Act."

11. I am in respectful agreement with the above view expressed by my learned brother.

12. As regards other arguments raised by learned counsel for the petitioner, I do not find any substance in the same as the objections with regard to narrowing down the dispute or referring the same to conciliation are merely procedural in nature and Section 22 of the Legal Services Authority, Act, 1987 empowers the Lok Adalat to deal with the matter by getting into merits of the case.

13. Furthermore, it may be relevant to mention here that the dispute in the present case is only in respect of quantum of amount to be paid by the Insurance Company to the claimant and it is not the case of the Insurance Company that the entire claim was bogus or frivolous or the vehicle did not meet with an accident.

14. To argue before this Court on the ground that the Lok Adalat did not follow the proper procedure as prescribed under the Act, *ibid*, when otherwise Permanent Lok Adalat vested with the jurisdiction, is not of much significance for the purpose of seeing the merits of the case. The insured/claimant got his vehicle repaired from the authorized service centre, the bills were also produced from the same authorized service centre and the Insurance Company never raised any doubt on the same being fictitious or fabricated. In my opinion, it is dis-entitled to rely on legal niceties merely to deny the claim of the petitioner so as to wriggle out of its responsibility to honor the genuine claim of the owner of vehicle.

15. In the premise, the writ petition is dismissed being devoid of merit and the same is, accordingly, dismissed. No order as to costs.

05.08.2019.
smriti

(ARUN MONGA)
JUDGE

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