IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 4919 of 2016
Date of Decision: 05.12.2019

National Insurance Co. Ltd.

...Petitioner

Vs.

Sonu Sharma and another

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr.Pavinder Singh Bedi, Advocate, for the petitioner.

Mr. Vikas Kumar, Advocate for respondent No.1.

RAJIV NARAIN RAINA, J. *(Oral)*

1. Heard.

2. In my view, compensation of Rs.1,12,000/- awarded for damage to the vehicle in a motor accident as against the valuation by the Surveyor of only Rs.66,169/- is perfectly justified by the reasoning of the Permanent Lok Adalat (Public Utility Services), Faridabad (for short ‘ the PLA’) in its award dated 7.9.2015.

3. The PLA has not placed any trust on the surveyor's report regarding assessment of loss and held that is not worthy of giving credence. This finding has been recorded after appreciating the evidence on record which has been discussed in detail in the order dated 7.9.2015. The PLA found that the surveyor did not give any reason for slashing the amount of Rs.8,000/- estimated for replacing the front wind screen to Rs.250/- and that too restricted to labour charges. Further, the surveyor did not give any reason for slashing the amount of

Rs.8000/- to Rs.2500/- only required for repairing the roof. There are other details of heads of loss by damage, which need not to be adverted to. The Surveyor has not given any solid reason for slashing the amounts in this arbitrary fashion. The PLA has seen through this and has not committed any perceptible error in its award.

4. As far as the argument goes that the Tempo Traveller was carrying passengers beyond its seating capacity, I have heard learned counsel for the parties and found from the record that although only 10 passengers could be seated in the vehicle but agree with the what the PLA has found. As per the statement of the Vicky (non-party), who lodged the complaint with the police, recorded in FIR there were 14/15 persons belonging to one family travelling in the vehicle. The PLA noticed the affidavit of Kishan Chand, on which the Insurance Company would rely, which shows that 9 adults and 5 children including toddlers were travelling by that vehicle with their mothers. The PLA did not accept this argument to bail out the insurance company finding it to be an argument, and I would say desperation, to avoid legal liability to indemnify the owner of the insured vehicle against loss and damage including alleged violation of laws and the conditions in the policy by adopting its own parameters.

5. No ground is made out warranting interference in the impugned award. There is hardly any error apparent on the face of the record. Consequently, the petition is dismissed.

6. If the Insurance Company has not paid the awarded amount of Rs.1,12,000/- with interest or part of it, then it is directed to disburse

the insurance claim as awarded within a period of two months with effect from supply of copy of the order along with interest at the rate ordered by the Permanent Lok Adalat (Public Utility Services), Faridabad.

(RAJIV NARAIN RAINA)
JUDGE

05.12.2019
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Whether speaking/reasoned : Yes
Whether reportable : Yes/No