IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7571 of 2017
Date of Decision:2.12.2019

Sonia and another ...Petitioners

Versus

National Insurance Company Limited and others ...Respondents

CWP No.7573 of 2017

Sonia and another ...Petitioners

Versus

National Insurance Company Limited and others ...Respondents

CORAM: HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr.Aditya Bhushan, Advocate
for the petitioners

Mr.Nitin Gupta, Advocate
for respondent Nos.1 and 2 in CWP-7571-2017 and
for respondent No.1 in CWP-7573-2017

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RAJIV NARAIN RAINA, J. (ORAL):

1. This order disposes of CWP Nos.7571 and 7573 of 2017 filed by the same petitioners.

2. One of the petition arises out of a Two Wheeler Package Policy and the other from a Group Personal Accident Policy. The sum insured was Rs.1,00,000/- each in both the policies.

3. The insured was the deceased, who met with an accident while riding a two wheeler. He was a young B-Tech student. The claim has been allowed by the Permanent Lok Adalat, Kurukshetra by passing award dated

8.2.2017 in favour of the claimants, being the family of the deceased. The petitioners had to approach the Lok Adalat for relief because the Insurance Company had repudiated both the claims for the wrong reasons. The dispute has been resolved by the Permanent Lok Adalat by passing a reasoned order.

4. The limited claim in these petition filed under Article 226 of the Constitution, is for payment of interest on the principal amount of insurance which the Permanent Lok Adalat has ignored to deal with even when there was a prayer to this effect. The death occurred on 3.11.2012 within the vicinity of the insurance policies. The petition was presented before the Permanent Lok Adalat on 2.4.2014, which has been decided on 8.2.2017. The respondent-Insurance Company has not filed a cross petition and have rested content with the order of the Permanent Lok Adalat.

5. The interest @ 18% per annum on the claim amount of Rs.1,00,000/- as well as claim for damages/compensation to the tune of Rs.20,000/- for harassment/mental agony and hardship caused to the applicants due to the unfair trade practice and deficient services on the part of the respondents, was claimed in the petition before the Lok Adalat. These claims have not been decided by the Lok Adalat, while they were prayed for and should have been dealt with reasons for and against.

6. One solution to the present dispute confined to element of interest is to remand the matter back to the Permanent Lok Adalat to consider the two aspects, interest and damages. But I will not adopt that course as it would only prolong the litigation and expense for something this Court can take care of today, if it is satisfied that substantial justice would be handed out if the two prayers are considered and granted by this

Court.

7. Therefore, I heard the counsel for the Insurance Company in opposition of these two reliefs which have not been noticed and dealt with by the PLA of what he regards as apt reason for refusal, the causes of delay and the unnecessary expense the petitioners have incurred to litigate in two stages.

8. If the claim to insurance amount was due and payable on the date of death i.e. on 3.11.2012 and the repudiation of the claim is unjustified and for improper reasons, then the petitioners deserve to get interest on the delayed payment of the principal sum assured. Right to interest is based on the simple principle that money is legally due but is illegally withheld. The award of the Lok Adalat establishes that withholding of money was an illegal action and clearly unjustified and, therefore, interest must run till payment.

9. As far as compensation by way of damages and harassment is concerned, I feel that the petitioners may deserve to be compensated I refrain form making such order but for forced litigation in the Lok Adalat they deserve at least the litigation costs which are assessed at Rs 10,000/-.

10. In the facts and circumstances, on hearing the parties that these petitions deserve to succeed. Consequently, I allow these petitions and direct that the petitioners will be entitled to interest at the rate of 7% per annum on the principal amount of Rs.1,00,000/- counted from three months after the date of accident i.e. from 1.2.2013 till when the amounts were paid under the awards. The contention of the company that in case interest is awarded it should start from the date of presentation of the petition on 2.4.2014 is rejected since the right to insurance claim matured on the death

by accident. Three months is found reasonable time to process the claim for payment. Hence, interest is ordered accordingly. The amount be calculated and disbursed within two months, failing which, interest will accrue @ 10% p.a. from the due date of maturity i.e 3 months after the demise of the insured. Litigation costs will be in addition, payable within the same period.

11. The petitions are allowed with the above directions and the awards of the PLA stand modified.

2.12.2019 **(RAJIV NARAIN RAINA)**
neenu **JUDGE**

Whether speaking/reasoned Yes
Whether reportable- Yes/No