IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA-1733-2016 (O&M)

Date of Decision: 21.1.2019

M/s Kotak Mahindra Old Mutual Life Insurance Ltd. and another

...Appellants.

Versus

Permanent Lok Adalat (Public Utility Services), Faridkot and another

...Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

PRESENT: Mr. Gangneshwar Walia, Advocate for the appellants.

Mr. G.S. Punia, Senior Advocate with
Ms. Harveen Kaur, Advocate for respondent No.2,
in LPA-1738-2016.

Mr. Surinder Garg, Advocate for respondent No.2,
in LPA Nos. 1733, 1783 and 1890 of 2016.

Mr. Karan Singla, Advocate for respondent No.2,
in LPA-1889-2016.

***

AJAY KUMAR MITTAL, J.

1. This order shall dispose of a bunch of eight appeals bearing LPA Nos. 1733, 1738, 1739, 1783, 1889, 1890, 1891 and 2084 of 2016 as according to learned counsel for the parties, identical facts and issues are involved therein and arise from one and the same judgment passed by the learned Single Judge. For brevity, the facts are being extracted from LPA-1733-2016.

2. In LPA-1733-2016, challenge is made to the order dated 22.4.2016 passed by the learned Single Judge whereby CWP-14615-2015 along with other connected writ petitions filed by the appellants was dismissed.

3. A few facts necessary for adjudication of the instant appeal as narrated therein may be noticed. The appellant had received two proposals of Life Insurance regarding Kotak Long Life Plus Plan and Kotak Capital Multiplier Plan from respondent No.2. The proposals were accepted at standard rates of premium and two different policies were issued to respondent No.2 on 19.2.2010 and 20.2.2010 having terms of ten years each. Respondent No.2 had signed all the proposal forms and had opted for the payment of premium on yearly basis. After the issuance of the policies, the next premiums were due in the year 2011 and thereafter in the year 2012. Since, respondent No.2 had failed to pay further premiums, the policies had lapsed and were subsequently terminated. The surrender value/ foreclosure refund of ₹ 8922.49 was paid to respondent No.2 under policy No. 1892532. Respondent No.2 moved an application dated 13.9.2013 (Annexure P-1) before respondent No.1 against the appellants for refund of ₹ 70,088/- qua the first premium paid on account of both the policies. The appellants filed reply dated 8.1.2014 (Annexure P-2) before respondent

No.1 and also raised a preliminary objection regarding the maintainability of the application. Appellant No.1 filed its additional statement (Annexure P-3) to the proposed settlement pleading that policy No. 1892530 was a Non Unit Linked Plan and the amount of surrender value had to be calculated in terms and conditions of the policy document. With regard to policy No. 1892532, it was mentioned that it was a Unit Linked Plan and an amount of ₹ 8922.49 was sent to respondent No.2 as per her entitlement. Respondent No.1 vide award dated 18.2.2015 (Annexure P-4) directed the appellants to pay an amount of ₹ 61,327/- along with interest @ 3.5% to respondent No.2. Feeling aggrieved by the award, Annexure P-4, the appellants filed CWP-14615-2015. The learned Single Judge vide impugned order dated 22.4.2016 passed in CWP-1172-2016, dismissed the said writ petition along with connected writ petitions including CWP-14615-2015. Hence, the present Letters Patent Appeals.

4. We have heard learned counsel for the parties and perused the paper book.

5. The learned Single Judge while deciding the writ petitions, framed the following two issues:-

> (i) Whether the Permanent Lok Adalat (PUS) has the jurisdiction to decide the *lis* between the parties on merits even after obtaining consent until and unless the controversy between the parties has been narrowed down?
>
> (ii) Whether the Regulations, notified on 1.7.2010, are applicable to the case of the petitioner-Company?

6. The learned Single Judge decided the aforesaid issues in favour

of respondent No.2 and dismissed the said writ petitions.

7. Section 22C of the Legal Services Authority Act, 1987 (in short "the Act") deals with the 'cognizance of cases by Permanent Lok Adalat' in which the Legislature has primarily provided for conciliation between the parties on the basis of agreeable terms and conditions of the settlement arrived at before the Permanent Lok Adalat. However, as per Section 22C (8) of the Act, where the parties fail to arrive at an agreement under Sub-Section (7), the Permanent Lok Adalat shall, if the dispute did not relate to any offence, decide the issue on merits.

8. In the present case, the controversy between the parties had been narrowed down by respondent No.2 who had made an offer before respondent No.1 that he/she would be satisfied with the principle amount after deduction, if any. It was rightly held by the learned Single Judge that respondent No.1 had the jurisdiction to decide the dispute between the parties if the conciliation proceedings had failed in terms of Section 22C(8) of the Act. Further, the appellants had conceded that the lock-in period was of three years and after it had elapsed, respondent No.2 had become entitled to refund of the premium after deduction as per Regulation 7 of the Regulations which came after the policies were obtained. The learned Single Judge had dismissed all the writ petitions by observing as under:-

> "There are two issues raised in this petition by learned counsel for the petitioner-Company i.e. (i) Whether the Permanent Lok Adalat (PUS) has the jurisdiction to decide the lis between the parties on merits even after obtaining consent until and unless the controversy between the parties has been narrowed down? (ii)

Whether the Regulations, notified on 1.7.2010, are applicable to the case of the petitioner-Company?

In order to search the answer to the Ist question, raised by learned counsel for the petitioner-Company, it would be relevant to refer to the provisions of Chapter VIA of the Act, which deals with the 'Pre-Litigation Conciliation and Settlement'. Section 22C of the Act deals with the 'Cognizance of cases by Permanent Lok Adalat' in which upto Section 22C(7) of the Act, the Legislature has talked of conciliation between the parties on the basis of possible terms and conditions of the settlement framed by the Permanent Lok Adalat (PUS). However, Section 22C(8) of the Act provides that where the parties fail to reach to an agreement under sub-Section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the issue on merits.

The argument of learned counsel for the petitioner-Company that the Permanent Lok Adalat (PUS) can only decide the lis between the parties on merits when the controversy has been narrowed down cannot be accepted because it is not so provided in Section 22C (8) of the Act that only when the controversy is narrowed down, the matter can be decided by the Permanent Lok Adalat (PUS) on merits. However, in the present case, even the controversy has been narrowed down by respondent No.2

himself, who has made an offer before the Permanent Lok Adalat that he would be satisfied with the principle amount of ₹ 3,50,000/- after deduction, if any, as per the instructions issued by the IRDA, which means that he had narrowed down the controversy for the purpose of payment of the amount by the petitioner-company.

Be that as it may, after taking into consideration the judgments relied upon by learned counsel for the respondents, I am of the considered opinion that the Permanent Lok Adalat (PUS) has the jurisdiction to decide the dispute between the parties, if the conciliation proceedings fail as the power has been given to it by the Legislature in terms of Section 22C (8) of the Act. The Ist question is thus decided accordingly.

Insofar as the IInd question is concerned, not only the petitioner has conceded in para No.9 of the impugned order, which has not been challenged, wherein it has been mentioned that the lock-in period was of three years and after it elapsed, respondent No.2 has become entitled to refund of the premium after deduction as per Regulation No.7 of the Regulations, but the Regulations have come after the policies were obtained.

Thus, in view of the aforesaid discussion, IInd question is also decided against the petitioner-Company. The cumulative effect of the entire discussion on the issues involved in this case takes this Court to the

> irresistible conclusion that the petitioner-Company has no case on merits in all the petitions and hence, all the petitions are hereby dismissed."

9. No illegality or perversity could be pointed out by the learned counsel for the appellants in the aforesaid findings recorded by the learned Single Judge which may warrant interference. Accordingly, finding no merit in the appeals, the same are hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

January 21, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned **Yes**

Whether Reportable **Yes**