IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 27758 of 2019
Date of Decision: January 23, 2020

Universal Sompo General Insurance Co. Ltd.

...... Appellants(s)

Versus

Permanent Lok Adalat and another

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Chandan Deep Singh, Advocate for
Mr. Sahil Abhi, Advocate
for the petitioner.

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LISA GILL, J.

This petition has been filed by the Universal Sompo General Insurance Company Ltd., challenging the award dated 03.05.2019 (Annexure P-3), passed by the Public Utility Services, Rupnagar, vide which claim petition filed by respondent no.2 has been allowed.

Respondent no.2 moved an application under Section 22-C of the Legal Services Authority Act, 1987, seeking release of Rs.4,31,809/- alongwith interest as well as damages etc., on the failure of the petitioners to release the entire insured amount on account of theft of machinery of respondent no.2, which was duly insured with the petitioners. It is pleaded that a total loss of Rs.7,95,000/- was caused to respondent no.2. FIR No. 77 dated 17.07.2016 under Sections 454, 389 IPC was lodged at Police Station Sadar Rupnagar in this respect. The respondents, however, released only a sum of Rs.3,63,191/- to the applicant in respect to the loss suffered by respondent no.2.

Learned Permanent Lok Adalat held respondent no.2 to be entitled to the entire amount of Rs.7,19,000/- as the loss assessed by none other but the petitioners' surveyor. Aggrieved therefrom this petition has been filed.

Learned counsel for the petitioner argues that the impugned award dated 03.05.2019 has been incorrectly passed by the learned Permanent Lok Adalat, Rupnagar. It is contended that there is a delay of 7 days in lodging the FIR and a delay of 12 days in giving intimation to the insurance company, therefore, the claim of respondent no.2 should be rejected in toto. In the alternate, it is submitted that as per report of the Surveyor, the amount of Rs.1,43,800/- towards depreciation as well as Rs.65,241/- towards underinsurance and Rs.25,498/- towards 'excess' stated to be 5% of the claimed amount, subject to minimum of Rs.5,000/- should be deducted from the amount as awarded by the learned Tribunal.

I have heard learned counsel for the petitioners and have gone through the file.

The undisputed facts are that respondent no.2 had insured the machinery installed at its premises with the present petitioners. The said machinery was stolen on 10.07.2016. FIR in this respect was admittedly registered, though on 17.07.2016. Intimation in regard to the theft was given, though after 12 days.

A perusal of the policy Annexure P-2 reveals that in the 'Claims Procedure' under the general conditions, it is mentioned that “in the event of any circumstances likely to give rise to a claim, you must intimate the insurance company as soon as reasonably possible, but in any event within 15 days of the date of the incident.” Admittedly, the petitioner-insurance company was informed within 12 days. Therefore, the arguments that delay in firstly lodging the FIR or of intimation to the insurance company, is fatal to the claim set up by respondent no.2 is unsustainable, hence, rejected. Moreover, it has been held by the Hon'ble Supreme Court in ***Gurshinder Singh Vs. Sriram General Insurance Co. Ltd., in Civil Appeal No. 653 of 2020***, decided on 24.01.2020, that mere delay in intimation to the company by itself cannot be a ground to discard the claim of the insured. It is relevant to note that theft in this case is admitted.

At this stage, it is pertinent to note that the petitioner-insurance company engaged the service of M/s. Cunningham Lindsey International Insurance Surveyors & Loss Assessors Pvt. Ltd., for verification of the loss. Report dated 05.10.2016 attached as Annexure P-5 with this writ petition was submitted by the said Surveyor. A perusal of this report dated 05.10.2016 reveals that a claim of Rs.7,47,000/- was raised by respondent no.2. The loss assessed by the Surveyor was of Rs.7,19,000/-. The petitioner-insurance company, however, found the insured to be entitled to a sum of Rs.3,63,345/- only. The detail thereof is reproduced as under:-

DESCRIPTION	AMOUNT
S.S. Tank	4,09,000
Grinder	1,25,000
Mixture Machine	1,85,000
Gross loss assessed	7,19,000
Less: 20% depreciation	1,43,800
Balance	5,75,200
Less: Under Insurance	65241
Adjusted Loss	5,09,959
Less: Excess (5% of Claimed amount)	25498

DESCRIPTION	AMOUNT
Less: 25% Delay in intimation	1,21,116
Balance	**3,63,345**

Learned counsel for the petitioners is unable to point out anything on record, which entitles the petitioner to deduct the amount as argued. Similarly, there is no merit in the argument that once respondent no.2 had accepted the amount of Rs.3,63,191/-, it was not open to it to have filed the application under Section 22-C of the Act and claim rest of the amount. Respondent no.2 is indeed entitled to the said amount of Rs.7,19,000/-.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned order dated 03.05.2019 (Annexure P-3), passed by the Public Utility Services, Rupnagar.

No other argument has been addressed.

This petition is accordingly dismissed.

(LISA GILL)
JUDGE

January 23, 2020
'Sunil'

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