

CWP-7233-2021

Date of decision : August 05, 2021

VIRINDER KUMAR SINGLA @ VARINDER KUMAR SINGLA

.....Petitioner

Versus

THE NEW INDIA ASSURANCE COMPANY LIMITED AND ORS

.....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Deepak Aggarwal, Advocate for the petitioner.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Petitioner has preferred this writ petition challenging award dated 16.06.2021 passed by the learned Permanent Lok Adalat (Public Utility Services), Bathinda to the limited extent that insurance claim for theft of tyres and tubes of the petitioner's vehicle has been denied.

Brief facts necessary for adjudication of the matter are that present petitioner filed application under Section 22(C) of the Legal Services Authorities Act, 1987 (for short – 'the Act') in respect to the insurance claim regarding heavy duty TATA LPT 2515 TC Ex Model 2007 bearing registration No. RJ-07-GA-2935, engine No. 70A62543225 and chasis No. 426031 BSZ 203161. The said vehicle was admittedly insured with the respondent – insurance company. Insurance policy being valid from 27.01.2015 to 26.01.2016. Requisite premium for the total IDV value of Rs.8,50,000/- was duly deposited. Vehicle in question as stolen on 04.01.2016. It was found by the applicant on Bathinda Dabwali road at village Jodhpur Romana on 07.01.2016. All nine tyres of the vehicle alongwith rims were found missing. FIR No. 5 under Section 379 IPC was registered on

07.01.2016 at the instance of the petitioner. It is pleaded in the application that intimation regarding theft of the vehicle was given to the respondent – insurance company on 04.01.2016 itself. Intimation regarding theft of tyres alongwith rims was given immediately on recovery of the vehicle on 07.01.2016. Petitioner's claim of Rs.47,770/- was, however, not satisfied resulting in the filing of application under Section 22(C) of the Act. As there was no settlement between the parties, matter was adjudicated upon by the learned Permanent Lok Adalat which directed the insurance company to pay a sum of Rs. 27,120/- on account of loss of nine wheel rims, as calculated by the respondent – insurance company in its survey report Ex.R3. Aggrieved of denial of the insurance claim qua the nine tyres and tubes, present writ petition has been filed.

Heard.

Petitioner raised a claim of Rs. 47,700/- was raised, out of which sum of Rs. 27,120/- has been awarded by the learned Permanent Lok Adalat (Public Utility Services), Bathinda. Reason for denying said claim by learned Permanent Lok Adalat is reproduced as under:-

“ After hearing both the sides and going through the evidence, it is found that the aforesaid citation is fully applicable to the facts of the present case. The insurance claim of the applicant was to be calculated by the respondents as per the clauses of IMT (Indian Motor Tariff). It is not necessary to mention it so specifically in the policy that the insurance claim would be subject to IMT clauses. As per clause 21 (a) of IMT 21, where there is not total loss of a vehicle insured, the insurer is not liable for loss on damage to the tyres and tubes in case of a commercial vehicle. In the case in hand, the vehicle is a commercial vehicle and it is not a case of total loss. So the exclusion of clause (a) of IMT 21 is applicable and the loss of tyres and tubes is

not covered in the present case as IMT 21(a) has not been got excluded by the applicant on payment of extra premium.”

Learned counsel for the petitioner is unable to deny applicability of IMT clauses and that extra premium in order to exclude clause (a) of IMT 21 was not deposited by the petitioner.

Keeping in view the abovementioned facts as well as amount involved in this matter, I do not find any ground whatsoever to modify award dated 16.02.2021.

Learned counsel for the petitioner is unable to point out any illegality or infirmity in the impugned award dated 16.02.2021.

No other argument has been addressed.

Present writ petition is, accordingly, dismissed.

August 05, 2021
rts

(Lisa Gill)
Judge

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