

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 10581 of 2021

Date of Decision: June 28, 2021.

New India Assurance Co. Ltd.

..... PETITIONER

Versus

Suresh Kumar Sharma and others

..... RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vinod Gupta, Advocate
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

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

Petitioner – New India Assurance Company Limited has filed this writ petition for quashing of award dated 22.12.2020 passed by the learned Permanent Lok Adalat for Public Utility Services, Bhiwani.

Brief facts necessary for adjudication of the case are that, an application under Section 22-C of the Legal Services Authorities Act, 1987 (for short, the 'Act') was filed by respondent No.1 with the averments that he is the owner of the car as described therein, which was insured by the petitioner-Insurance company. Insurance was valid from 16.12.2016 to 15.12.2017. An

accident involving the insured car took place on 01.12.2017. A neelgai had suddenly come onto the road on 01.12.2007 before the car. Though the driver tried to avert the accident but was unable to do so. The vehicle statedly turned turtle and extensive damage was caused. Intimation of the accident was conveyed to the Insurance company without delay. Surveyor of the Insurance company is stated to have visited the spot and prepared the survey report. All requisite documents as required by the Insurance company are stated to have been deposited by claimant/respondent No.1. Claimant/respondent No.1 was further told to park the vehicle in question at the service centre of respondent No.2 and as per direction of the Insurance company the vehicle was stated to have been parked in the service area of respondent No.2 on 02.12.2017, though receipt was issued on 04.12.2017. Repair of the car was not carried out. The Insurance company, in fact, refuted the claim of respondent No.1. Accordingly, the present application was filed before the learned Permanent Lok Adalat. Claim was refuted by the insurance company while taking a stand that as per report of one of its surveyor, the claim was not found to be genuine as the damage noticed in the car and the facts as mentioned in the report could not be co-related with the cause of accident. Moreover, towing bill was not found in order, besides, the fact that no FIR or DDR was lodged. Respondent No.2 filed its reply stating that estimate of Rs.4,85,616/- was prepared for repair of the damage caused to the car.

Conciliation proceedings as envisaged under the Act did not fructify, therefore, the learned Permanent Lok Adalat proceeded to decide the matter. Sum of Rs.1,97,416/- has been awarded on the basis of the survey report of Raj Kumar Singal and Associates (Ex.RW1/A), besides, Rs.5,500/- as

litigation charges. Aggrieved therefrom, this writ petition has been filed.

Learned counsel for the petitioner vehemently argues that there is no truth in the claim petition inasmuch as the damage found on the car cannot be co-related with the manner in which the accident is stated to have taken place. It is submitted that doors of the car were not damaged which proves story of over-turning of the car as stated by the claimant to be incorrect. It is thus prayed that the impugned award dated 22.12.2020 passed by the learned Permanent Lok Adalat be quashed.

Heard learned counsel for the petitioner and have gone through the file with his assistance.

Claimant/respondent No.1 in his application under Section 22C of the Act has stated that the accident was caused due to 'Neelgai' coming onto the road suddenly. Though the driver tried to avert the accident, but was unsuccessful. The vehicle in question which was admittedly insured with the petitioner-Insurance company was thus completely damaged. Learned counsel for the petitioner is unable to deny that the accident, in question, is not denied. Argument sought to be raised is that damage found on the car does not co-relate with the manner in which the accident took place. I do not find any merit in this argument, especially, once the accident in question is accepted by the Insurance company. Learned Permanent Lok Adalat has specifically observed that the photographs (Ex.P3 to P7) reflect the damaged condition of the vehicle. It is further not in dispute that the damaged car was taken by the claimant/respondent No.1 to the premises of respondent No.2 i.e., the authorized repair agency. Therefore, variance in the tow bill is indeed immaterial as it is rightly observed by the Learned Permanent Lok Adalat that

the photographs themselves reflect that it would not be possible to transport the said damaged vehicle to the premises of respondent No.2 without pressing into service the towing facility. Furthermore, it is to be noticed that the cost estimate prepared by respondent No.2 for the repair of the vehicle in question is Rs.4,85,616/- while learned Permanent Lok Adalat has awarded a sum of Rs.1,97,416/- on the basis of the survey report submitted by Raj Kumar Singal and Associates i.e., the Surveyor appointed by the Insurance company itself.

Keeping in view the factual matrix of the case, I do not find any illegality, infirmity or irregularity in the impugned award dated 22.12.2020 passed by the learned Permanent Lok Adalat (PUS), Bhiwani which calls for any interference by this Court at the instance of the present petitioner.

No other argument has been raised.

Writ petition is, consequently, dismissed with no order as to cost.

June 28 , 2021.
'om'

(**LISA GILL**)
JUDGE

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