103-2298

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

**CM No.8188-CWP of 2021 in/and
CWP No.2298 of 2019 (O&M)
Date of Decision:16.07.2021**

Smt. Neelam Gupta

...Petitioner

Versus

The Permanent Lok Adalat and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: - Mr.Chander Shekhar Singhal, 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 the outbreak of pandemic, COVID-19.

CM No.8188-CWP of 2021

Prayer in this application is for preponment of hearing of the writ petition, which is listed for 13.10.2021. It is submitted that notice of motion has not been issued in this petition as yet.

Keeping in view the facts and circumstances as well as arguments addressed, hearing of the writ petition is preponed from 13.10.2021 for today itself.

Application is disposed of.

CWP No.2298 of 2019

Petitioner being aggrieved of dismissal of her application under Section 22C of the Legal Services Authorities Act, 1987 [for short 'the Act'] by the learned Permanent Lok Adalat for Public Utility Services, Ambala [for short 'the PLA'] vide decision dated 26.10.2018, has filed this writ petition.

Brief facts, necessary for adjudication of the matter, are that petitioner is the unfortunate widow of Gursewak Singh, who prior to his death had obtained home loan of Rs.8,50,000/- from the State Bank of India, arrayed as respondent No.3 in this petition. Insurance policy under Life Rinn Raksha was secured by the petitioner's husband from SBI Life Insurance Co. Ltd. arrayed as respondents No.2 & 3 in present writ petition. As per the terms and conditions of policy in question i.e. Life Rinn Raksha, in case of death of petitioner's husband, outstanding loan amount payable by petitioner's husband was to be deposited with respondent No.4/State Bank of India by respondents No.2 & 3. Life Rinn Raksha Policy dated 13.12.2011 was valid upto 13.12.2021 to cover loan amount. Premium of same was deposited with respondent No.2 till the death of petitioner's husband on 19.5.2012. It is stated in the application under Section 22C of the Act that information about petitioner's death was immediately given to respondents. However, respondents No.2 & 3 repudiated petitioner's claim on 17.9.2012 on the ground that policy holder had not disclosed material facts about his medical condition as he was suffering from heart disease at the point of issuance of policy but the same was concealed. The matter was contested by respondents before PLA. Written statement was filed. An effort was made for conciliation but when parties failed to reach any settlement, learned PLA proceeded to decide the matter on merits. Claim petition filed by petitioner was dismissed on the ground that petitioner's husband had not disclosed material particulars in terms of the policy, which justified repudiation of the claim by the Insurance Company. Aggrieved therefrom, this writ petition has been filed.

Learned counsel for the petitioner vehemently argues that first and foremost learned PLA does not have jurisdiction to decide the matter on merits. Once the parties could not arrive at an amicable resolution of dispute, PLA is not entitled to decide the matter on merits. Moreover, the present case involved disputed questions of fact requiring detailed evidence, therefore, PLA should have stayed its hands from deciding on merits. It is further submitted that the documents relied upon by learned PLA have not been proved in accordance with law.

Learned counsel for the petitioner also relies upon Division Bench judgment dated 20.11.2007 of Allahabad High Court in CMWP No.69235 of 2005 titled as ***"Shanti Devi** Vs. **Office of Insurance Ombudsman and others"*** and a decision dated 17.12.2016 of this High Court in CWP No.26178 of 2016 titled as ***"National Insurance Company Limited** Vs. **Sandeep and others"***.

I have heard learned counsel for the petitioner at length and have gone through the file with his able assistance. However, I do not find any ground, whatsoever, to interfere in the impugned award. This is so for the reasons as delineated in the following paras.

It is relevant to refer to Section 22C, at this stage, which reads as under: -

22C. Cognizance of cases by Permanent Lok Adalat.—

(1) Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute:

Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:

Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees:

Provided also that the Central Government, may, by notification, increase the limit of ten lakh rupees specified in the second proviso in consultation with the Central Authority.

(2) After an application is made under sub-section (1) to the Permanent Lok Adalat, no party to that application shall invoke jurisdiction of any court in the same dispute.

(3) Where an application is made to a Permanent Lok Adalat under sub-section (1), it—

> *(a) shall direct each party to the application to file before it a written statement, stating therein the facts and nature of dispute under the application points or issues in such dispute and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the application;*
>
> *(b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings;*
>
> *(c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply thereto.*

(4) When statement, additional statement and reply, if any, have been filed under sub-section (3), to the satisfaction of the Permanent Lok Adalat, it shall conduct conciliation proceedings between the parties to the application in such

> *manner as it thinks appropriate taking into account the circumstances of the dispute.*
>
> *(5) The Permanent Lok Adalat shall, during conduct of conciliation proceedings under sub-section (4), assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner.*
>
> *(6) It shall be the duty of every party to the application to cooperate in good faith with the Permanent Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok Adalat to produce evidence and other related documents before it.*
>
> *(7) When a Permanent Lok Adalat, in the aforesaid conciliation proceedings, is of opinion that there exist elements of settlement in such proceedings which may be acceptable to the parties, it may formulate the terms of a possible settlement of the dispute and give to the parties concerned for their observations and in case the parties reach at an agreement on the settlement of the dispute, they shall sign the settlement agreement and the Permanent Lok Adalat shall pass an award in terms thereof and furnish a copy of the same to each of the parties concerned.*
>
> ***(8) Where the parties fail to reach at an agreement under sub-section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute."***
> ***[emphasis added]***

Section 22C(8) of the Act clearly confers jurisdiction upon PLA to decide a matter on merits once conciliation has failed provided the dispute does not relate to any offence. It is a settled position of law that once attempts for conciliation between the parties do not fructify, learned PLA is well within its jurisdiction to decide matter on merits. Reference in this regard can gainfully be made to a decision of this High Court in ***"Magma HDI General Insurance Co Ltd. and another Vs. Ashok Kumar and another"*** *2015 (47) RCR (Civil) 648.* It is specifically observed in impugned award dated 26.10.2018 that all attempts were made for an amicable resolution of dispute but parties could not arrive at a settlement. It is thereafter that the matter initiated by the petitioner herself before the learned PLA, was decided on merits.

It is pertinent to note at this stage that learned PLA has specifically referred to the discharge card of petitioner's husband Ex. R-E1, issued by Northern Railway Divisional Hospital, Ambala Cantt., which reflects that petitioner's husband was admitted in the said hospital on 21.3.2010 and discharged on 30.3.2010. He was diagnosed with 'severe Pulmonary Arterial Hypertension, R side of heart failure, Arterial Thrombus mild depression'.

Ex.R-E2 is the indoor case record of Northern Railway Divisional Hospital, Ambala Cantt., which shows that the petitioner's husband was admitted on 4.12.2010 and discharged on 9.12.2010 and he was again diagnosed with severe Pulmonary Arterial Hypertension, R side of heart failure, Arterial Thrombus mild depression ACGE. Reference has been made by PLA to the medical report including investigating report dated 09.12.2010 onwards which reflects the petitioner's husband to be suffering from heart disease and that he ultimately passed away due to cardiogenic shock. Relevant portion of award dated 26.10.2018 reads as under: -

> *"The respondents have produced documentary evidence showing that prior to the signing of the membership form deceased Sh. Gursewak Singh was suffering from heart disease. Ex. R-E1 is discharge card issued by Northern Railway Divisional Hospital Ambala Cantt, which shows that the deceased was admitted in the said hospital on 21.3.2010 and discharged on 31.3.2010 and on the date of admission he was diagnosed for* severe *Pulmonary Arterial Hypertension, R side of heart failure, Arterial Thrombus mild depression. Ex.R-E2 is indoor case record of Northern Railway Divisional Hospital Ambala Cantt, which shows that the deceased as admitted in the hospital on 4.12.2010 and was discharged on*

> *9.12.2010. He was diagnosed for Pulmonary Arterial Hypertension, R side of heart failure, Arterial Thrombus mild depression ACGE. Ex.R-E3 is High Resolution Harmonic Eco diagnosed for severe Pulmonary Arterial Hypertension, R side of heart failure, Arterial Thrombus mild depression cardiograph report date 7.10.2010 which also suggests that the deceased was suffering from Pulmonary Arterial Hypertension. Ex. R-E4 is indoor case record of Northern Railway Divisional Hospital Ambala Cantt, which shows that the deceased remained admitted in the said hospital from 7.9.2011 to 13.9.2011 for the same disease for which he remained admitted in the same hospital earlier. Ex. R-E5 is a discharge summary issued by BBC Heart Care Hospital, Jalandhar City which shows that the deceased remained admitted in the said hospital from 31.10.2011 to 3.11.2011 and during this period he had undergone Echocardiography and Coronary Angiograhy vide reports, Exhibits, R-R6, R-E7 and R-E8. He was also advised CT Angio for further evaluation. Exhibit R-E9 is indoor case record of Northern Railway Divisional Hospital Ambala Cantt shows that the deceased was admitted in the said hospital on 8.1.2012 as known case of PAH. Exhibit RF is medical Attendant's certificate the primary cause of death of the deceased was CHF with cardiogenic shock and secondary cause of death was severe PAH. The duration of illness was known case of severe Pulmonary Arterial Hypertension with CHF for last two to three years."*

It is apparent that at the time of issuance of policy on 13.12.2011 petitioner's husband was very well aware of the cardiac problem he was suffering from. He ultimately passed away on 19.05.2012 due to his heart condition.

Learned counsel for the petitioner does not deny that as per terms and conditions of the policy, it was incumbent upon the insured to have disclosed any such medical problem being faced by him. It is relevant to note, at this stage, that argument raised by the petitioner that documents in question were not proved in accordance with law, has no merit for the simple reason that none of these documents have been denied by the petitioner either before PLA or before this Court. There is no denial of fact of the petitioner's husband suffering from the cadiac problem before securing the insurance policy.

Reference to the judgments ***Smt. Shanti Devi (Supra)*** and ***National Insurance Company Limited (Supra)*** are of no avail to the petitioner as the same are not relevant for adjudication of the controversy at hand. In case of ***Smt. Shanti Devi (Supra)***, the malady suffered by deceased in question was not relatable to his death. It is observed that "insured suffering from such disease or death due to such disease not arising out of any false or misstatement at the time of making policy cannot be a ground of repudiation of claim by the Insurance Company". The matter in ***National Insurance Company Limited (Supra)*** revolves around the question of purported delay in reporting incident of theft while claiming insurance amount on account of theft of vehicle. Both the judgments are clearly not applicable to the facts and circumstances of this case.

Learned counsel for the petitioner is unable to point out any illegality or infirmity in the impugned award dated 26.10.2018 which calls for interference by this Court in exercise of writ jurisdiction.

Writ petition is accordingly dismissed.

(LISA GILL)
JUDGE

16.07.2021
Vivek

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