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

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CWP-3130-2017 (O&M).
Date of Decision: 13.12.2022.

National Insurance Company Limited

...Petitioner

Versus

Harish and another

…Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

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

Mr. Ravinder Hooda, Advocate, for respondent No.1.

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VINOD S. BHARDWAJ. J (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India, 1950 seeking issuance of a writ in the nature of certiorari for quashing the award dated 14.05.2016 passed by the Permanent Lok Adalat (Public Utility Services), Rewari, in application No.268 of 14.09.2015 whereby the application filed under Section 22 C of the Legal Services Authorities Act, 1987, by the respondent No.1- applicant for claiming the Insured Declared Value (for short 'IDV') has been allowed and the petitioner Insurance Company has been directed to pay IDV along with interest to the respondent No.1-applicant.

Briefly summarized, the facts of the present case are that the respondent No.1-applicant was the owner of motorcycle bearing registration No HR-99-SL Temp-8047 which was insured with the petitioner vide policy No.39010231146201702480 for the period commencing w.e.f. 05.08.2014 upto 04.08.2015. The IDV of the vehicle was Rs.41,173/-. The above vehicle was stolen on 19.10.2014 regarding which FIR No.499 dated 22.10.2014 was registered at Police Station, Pataudi. The respondent No.1-applicant thereafter lodged a claim for indemnification against the loss of the said vehicle, however, as the needful was not being done, he approached the Permanent Lok Adalat (Public Utility Services), Rewari, by moving an application invoking the jurisdiction under Section 22 C of the Legal Services Authorities Act, 1987. The said application was allowed by directing as under:-

> *"We are of the considered opinion, there is nothing I have asked the respondent whether there was any condition in the insurance policy that the insured vehicle. No compensation can be given if the vehicle has not been insured in Section 39 of MV Act. Thereafter, it was stated by that there was no said condition in the insurance policy.*
>
> *In our opinion, the claim of the applicant could not be rebutted. On the ground that the applicant has not got to registered as he was required to do under Section 39 of the MV Act.*

> *We direct the respondent to pay to the applicant Rs.41,173/- along with interest at the rate of 12% per annum repudiation i.e. 06.04.2016 was return by the respondent. The liable caused respondent shall also be to pay Rs.3000/- for the harassment to the applicant. accordingly passed."*

Aggrieved of the above, the present petition has been filed.

Learned counsel appearing on behalf of the petitioner has placed reliance on the judgment of the Hon'ble Supreme Court in the matter of ***United India Insurance Co. Ltd. Vs. Sushil Kumar Godara dated 30.9.2021, passed in Civil Appeal No.5887 of 2021***. The Hon'ble Supreme Court had held as under:-

> *"13. In the present case, the temporary registration of the respondent's vehicle had expired on 28-07-2011. Not only was the vehicle driven, but also taken to another city, where it was stationed overnight in a place other than the respondent's premises. There is nothing on record to suggest that the respondent had applied for registration or that he was awaiting registration. In these circumstances, the ratio of Narinder Singh (supra) applies, in the opinion of this court. That Narinder Singh (supra) was in the context of an accident, is immaterial. Despite this, the respondent plied his vehicle and took it to Jodhpur, where the theft took place. It is of no consequence, that the car was not plying on the road, when it was stolen; the material fact is that concededly, it was driven to the place from where it was stolen, after the expiry of temporary registration. But for its theft, the respondent would have driven back the vehicle. What is important is this Court's opinion of the law, that when an insurable incident that*

> *potentially results in liability occurs, there should be no fundamental breach of the conditions contained in the contract of insurance. Therefore, on the date of theft, the vehicle had been driven/used without a valid registration, amounting to a clear violation of Sections 39 and 192 of the Motor Vehicles Act, 1986. This results in a fundamental breach of the terms and conditions of the policy, as held by this Court in Narinder Singh (supra), entitling the insurer to repudiate the policy."*

He further submits that the aforesaid judgment has also been followed by this Court in the matter of ***National Insurance Company Limited Vs. Ambala Belting House and others dated 06.05.2022 passed in CWP-1995-2016***.

It is apparent from the perusal of the above said judicial pronouncements that after the expiry of the period of temporary registration, the vehicle was being used without a valid registration number which was clearly in violation of Sections 39 and 192 of the Motor Vehicles Act. The said breach being fundamental would entitle the petitioner-insurance company to repudiate the policy.

Learned counsel appearing on behalf of the respondent No.1/applicant does not dispute that the law has been decided against him and concedes that the judgment of the Hon'ble Supreme Court in ***United India Insurance Co. Ltd. Vs. Sushil Kumar Godara*** (supra) would be applicable against him.

Accordingly, the present writ petition is allowed and the award of Permanent Lok Adalat (Public Utility Services), Rewari dated 14.09.2016, passed in application No.268 of 14.09.2015 is set aside.

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December 13, 2022 **(VINOD S. BHARDWAJ)**
rajarora **JUDGE**

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