IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH.

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CWP-1995-2016 (O&M).
Date of Decision: 14.09.2023.

NATIONAL INSURANCE COMPANY LIMITED

... Petitioner

Versus

AMBALA BELTING HOUSE AND ANOTHER

... Respondents

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

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

Mr. Ashish Gupta, Advocate,
for respondent No.1.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present writ petition is to the Award dated 19.10.2015 (Annexure P-1) passed by the Permanent Lok Adalat (Public Utility Services), Ambala whereby the application preferred by the petitioner under Section 22 C of the Legal Services Authorities Act, 1987 (hereinafter referred to as the Act of 1987) had been allowed and the petitioner-Insurance Company had been directed to pay a sum of

Rs.5,97,550/- in favour of respondent No.1-applicant along with costs of Rs.5,000/-.

Briefly summarized, the facts of the present case are that the respondent No.1-applicant had purchased a Mahindra Bolero SLX Vehicle bearing Chassis No.96849 and Engine No.78579 from M/s Goel Motors Private Limited, Mohali, Punjab on 08.01.2011, for his personal necessity. A temporary registration number had been granted to the respondent No.1-applicant at the time of purchase which was valid for a period of one month, hence, the said registration was valid till 07.02.2011. An insurance policy was also raised by respondent No.1-applicant which was valid from 08.01.2011 to 07.01.2012 vide Insurance Cover Note bearing No.401010987662. The above said vehicle in question was required to be registered in District Ambala. Respondent No.1-applicant claimed to have submitted the papers required for registration of the vehicle in question with the Registration Authority for getting the same registered at Ambala and all the requisite formalities had been completed as directed by the Registering Authority. The requisite fee was also deposited with the District Information Technology Society (DITS) as well as the fee was also deposited with Municipal Corporation, Ambala. The vehicle had also been inspected by the District Inspector of Police, Ambala on 07.02.2011 and Form No.20 had been issued in his favour. The District Information Technology Society (DITS) also issued a temporary certificate in favour of respondent No.1-applicant and confirmation letter dated 16.02.2011 bearing Memo No.SPC-1 was issued by the Registration Authority Ambala for verifying the particulars of the vehicle in question. However, during the pendency of the above said requirements with the Registration Authority, the vehicle in question was stolen on the intervening night of $5^{th}/6^{th}$ May 2011 from the house of respondent No.1-applicant where the vehicle had been parked. An intimation in this regard was immediately furnished to the police resulting in registration of FIR No.229 dated 06.05.2011 under Section 379 of the Indian Penal Code at Police Station Ambala Cantt. The same could not be traced despite best efforts and the untraced report was subsequently submitted by the Investigating Agency before the Judicial Magistrate First Class, Ambala. A report regarding non-involvement of the vehicle in any crime was also issued by the State Crime Record Bureau. The claim was thereafter lodged by the respondent No.1-applicant with the Petitioner Insurance Company, however, the same was declined whereupon the application under Section 22 C of the Act of 1987 was preferred before the Permanent Lok Adalat (Public Utility Services), Ambala, for settlement of the issues.

Upon submission of the said application, notice was issued to the Petitioner Insurance Company which put in appearance and a response was filed whereby various objections regarding the maintainability of the claim as well as the petition were raised. It was averred, on merits, that the application of respondent No.1-applicant deserves to be dismissed as the temporary registration was valid only for a period of one month and that the permanent registration not having been obtained by respondent No.1-applicant caused a breach of Section 39 of the Motor Vehicles Act, 1988 and the rules framed thereunder. Consequently, the petitioner-Insurance Company was justified in rejecting and repudiating the claim filed by respondent No.1-applicant.

Attempts for amicable resolution of the issues in terms of Section 22 C (4) to (7) of the Act of 1987 was initiated by the Permanent Lok Adalat (Public Utility Services), Ambala, however, no amicable resolution could be attained. Hence, adjudication under Section 22 C (8) of the Act of 1987 was undertaken.

Upon consideration of the evidence adduced by the respective parties, the Permanent Lok Adalat (Public Utility Services), Ambala, allowed the application and directed that compensation of Rs.5,97,550/- be awarded in favour of respondent No.1-applicant and against the petitioner.

Aggrieved thereof, the present writ petition has been filed.

Learned counsel for the petitioner-Insurance Company has argued that the Permanent Lok Adalat (Public Utility Services), has failed to appreciate the provisions of Section 39 of the Motor Vehicles Act, 1988 and also the law laid down by the Hon'ble Supreme Court in the matter of ***United India Insurance Co. Ltd. Vs. Sushil Kumar Godara in Civil Appeal No.5887 of 2021 decided on 30.09.2021*** which such judgment has also been followed by this Court in ***CWP-3130-2017 decided on 13.12.2022 titled as 'National Insurance Company Limited Vs. Harish and another***.' It is argued that since the temporary registration was valid only for a period of one month, hence, any usage of the vehicle after the expiry of period of temporary registration number would not entitle the user for claiming compensation in the event of any loss/damage caused to the insured vehicle.

Controverting, the said arguments counsel for respondent No.1-applicant places reliance on the judgments passed by this Court in the matter of ***Reliance General Insurance Co. Limited Vs. Rakesh Kumar and***

another, reported as 2017 ACJ 2308 as well as in the matter of ***New India Assurance Company Limited and another Vs. Ashok Kumar Sachdeva, reported as 2018 ACJ 2208***. It is argued by him that the vehicle in question had been stolen while parked outside the house of respondent No.1-applicant and that the same was not being used or plied in violation of the provisions of the Motor Vehicles Act, 1988. Consequently, the bar/embargo imposed under Section 39 of the Motor Vehicles Act, 1988 is not applicable to respondent No.1-applicant. He further submits that the judgment of the Hon'ble Supreme Court in the matter ***United India Insurance Co. Ltd. Vs. Sushil Kumar Godara*** *(supra)* cited by the petitioner and as relied by this Court is not applicable to the facts of the present case as in the above said, the vehicle in question had been driven by the insured to Jodhpur from where it was stolen. Hence, the Hon'ble Supreme Court recorded a finding that the vehicle had been used and plied in violation of Section 39 of the Motor Vehicles Act, 1988. Further, in so far as the judgment of this Court in the matter of ***National Insurance Company Limited Vs. Harish and another*** (supra) is concerned, the counsel for the respondent did not dispute that the vehicle was being used in violation of the provisions of Section 39 of the Motor Vehicles Act, 1988. The said factual matrix is being denied in the present case. The judgments relied upon by the petitioner-Insurance Company would thus not be applicable. He rather places reliance on the precedent judgments of this Court to contend that under similar circumstance when theft had taken place from the house of the insured, this Court has upheld the grant of compensation in favor of the insured. The relevant extract of the judgment in the matter of ***Reliance General***

Insurance Co. Limited Vs. Rakesh Kumar and another (supra) is reproduced as under:-

> *"5. The fact that respondent No. 1 purchased new Bolero car, which was insured with the petitioner-company for the period from 19.09.2007 to 18.09.2008 is not in dispute. Further, it is not in dispute that it was stolen on 02.01.2008. For rejecting the claim, the petitioner sought to raise an issue that on that date the vehicle was not registered. Section 39 of the Act was referred to, which makes registration of a vehicle mandatory for plying on the road. It is not in dispute that the vehicle in the present case was not being plied on road as it was a case of theft."*

The relevant extract of the judgment in the matter of ***New India Assurance Company Limited and another Vs. Ashok Kumar Sachdeva*** (supra) reads as under:-

> *"8. This is a case where there was no evidence available on the file that any effort was made by the owner to get the vehicle registered. Still further the Court relied upon Section 39 of the Motor Vehicles Act, 1988 as in that case vehicle had met with an accident. Section 39 of the Motor Vehicles Act, 1988, is extracted as under:-*
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>> *39. Necessity for registration.—No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner: Provided that nothing in this section shall apply to a motor vehicle in possession of a dealer subject to such*

> *conditions as may be prescribed by the Central Government.*

> *9. A reading of Section 39 of the Motor Vehicles Act, 1988 would show that no person shall drive any motor vehicle at a public place, unless the vehicle is registered in accordance with this Chapter.*

> *10. In the opinion of this Court, the aforesaid judgment would not be applicable because in the present case the vehicle was not being driven when the incident took place. It is a case of theft of vehicle when it was parked outside the house of the respondent.*

> *11. Still further, owner had made all efforts to get the vehicle registered after the temporary registration had expired. He had filled in Form-20 as prescribed under the Motor Vehicles Act and presented the vehicle for inspection before the Motor Vehicle Inspector. The Motor Vehicle Inspector had approved the vehicle on 22.04.2015. As noticed earlier, the vehicle could not be finally registered because of communication from the State of Haryana. In these circumstances, respondent cannot be held responsible for non-registration of the vehicle."*

Relying on the aforesaid, learned counsel for the petitioner-Insurance Company submits that the facts of the case in hand are closer to the judgments of this Court cited above and that the Permanent Lok Adalat (Public Utility Services), Ambala, has exercised its jurisdiction judiciously and in terms of the mandate of Section 22 D of the Act of 1987.

I have heard the learned counsel for the respective parties and have gone through the documents available on record and have also considered the judgments relied by them.

The undisputed facts which emerge from the contentions raised and the documents available on file are as under:-

(i) Vehicle in question had been purchased by respondent No.1-applicant on 08.01.2011 from M/s Goel Motors Private Limited, Mohali, and a temporary registration number valid up to 07.02.2011 had been issued at the time of the sale;

(ii) That a valid insurance cover for a period of one year commencing w.e.f. 08.01.2011 till 07.01.2012 had been issued by the petitioner-Insurance Company;

(iii) That the vehicle in question had been stolen from the front of the house of respondent No.-applicant where it was parked, on the intervening night of $5^{th}/6^{th}$ May 2011;

(iv) That the FIR was promptly lodged on 06.05.2011 by the respondent No.1-applicant without any undue delay and the petitioner-Insurance Company was also informed of the same; and

(v) Untraced report had been submitted by the Investigation Agency along with the report that the vehicle was not involved in any crime after obtaining the same from the State Crime Bureau.

Further, it would be appropriate to refer to the provisions of Section 39 of Motor Vehicles Act, 1988 and the same is extracted as under:-

> *"39. Necessity for registration.—No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner: Provided that nothing in this section shall apply to a motor vehicle in possession of a dealer subject to such conditions as may be prescribed by the Central Government."*

A perusal of the aforesaid shows that the provisions of the Motor Vehicle Act, 1988 necessitates a permanent registration number of a motor vehicle and prohibits the same to be driven on any public place or any other place unless the same had been registered in terms of Chapter VI of the Motor Vehicles Act. Apparently, there is no evidence adduced by petitioner-Insurance Company that the vehicle in question had been driven in any public place or in any other place at the time when the incident in question had taken place. The specific case of respondent No.1-applicant is that the vehicle was parked in front of his house and the allegations of the usage of the vehicle at public place or at any other place stands controverted by the contemporaneous evidence that is available on record. Further, the specific pleaded case of respondent No.1-applicant was also to the effect that the necessary application for registration of the motor vehicle had already been submitted by the respondent No.1-applicant with the Registering Authority and that the same was under process with the Registering Authority, Ambala. There was no additional requirement to be to be complied with by respondent No.1-applicant and he cannot be faulted for any delay on part of the Registration Authority in completion of its formalities.

Even though, counsel for petitioner-Insurance Company made a feeble attempt to argue that the necessary compliance had not been done, however, he is not in a situation to controvert the fact that it was specifically the pleaded case of respondent No.1-applicant that he had complied with all the required formalities for registration of the vehicle and that notwithstanding the said pleading, no evidence to contradict the said statement/assertions had been placed by the Petitioner Insurance Company on record of the Permanent Lok Adalat (Public Utility Services), Ambala. The stand thus remains uncontroverted and undisputed and is thus required to be accepted on the preponderance of probabilities.

The order passed by the Permanent Lok Adalat (Public Utility Services), Ambala has taken all these aspects into consideration and after recording the same has exercised its discretion in terms of Section 22 D of the Act of 1987. It is mandated that the jurisdiction of the Permanent Lok Adalat (Public Utility Services) is guided by principles of equity, objectivity, fairness, the principles of Natural justice and other principles of justice. Once such a discretion has been exercised by the Permanent Lok Adalat (Public Utility Services) and it does not suffer from any illegality perversity, impropriety or mis-appreciation of evidence brought on record, such an exercise of discretion would not ordinarily be interfered with.

The judgments relied upon by the counsel for the petitioner-Insurance Company are distinguishable on the facts of the present case.

The petitioner-Insurance Company intends to absolve itself of its obligation. It is thus on the petitioner to establish that the respondent

No.1-applicant was in default or that he violated the law. Once all steps expected of a prudent person have been done by the owner and all documents are submitted by him to the Registering Authority, there was nothing further that he was required to do. The petitioner-Insurance Company failed to lead any evidence to dispute the above claim made by respondent No.1-applicant in his claim. Inference thus has to be drawn against it.

I find that the Award passed by the Permanent Lok Adalat (Public Utility Services), Ambala does not suffer from any illegality, perversity, impropriety or mis-appreciation of evidence and the same is accordingly affirmed.

The present writ petition, being without merits, is thus dismissed.

Pending misc. applications, if any, shall also stand disposed of accordingly.

September 14, 2023 **(VINOD S. BHARDWAJ**
raj arora **JUDGE**

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