

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

201

**CWP-3684-2014 (O&M).
Date of Decision: 05.01.2023.**

The New India Assurance Company Limited

...Petitioner

Versus

Giri Raj and another

...Respondents

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

Present: Mr. R.C.Gupta, Advocate, for the petitioner.

Mr. P.R. Yadav, Advocate, for respondent No.1.

VINOD S. BHARDWAJ. J (ORAL)

The present writ petition has been filed raising a challenge to the impugned ex parte award dated 13.05.2013 (Annexure P-1) as well as the order dated 12.11.2013 (Annexure P-2) passed by the Permanent Lok Adalat (Public Utility Services), Gurugram, in Application No.215 of 2013.

Learned counsel appearing for the petitioner-Insurance Company contends that the respondent No.1-applicant had instituted an

application under Section 22 C of the Legal Services Authorities Act, 1987 before the Permanent Lok Adalat (Public Utility Services), Gurugram, seeking release of hospitalization benefits under the Policy bearing No.31280134100100020463 amounting to Rs.2 lacs for the treatment during the validity period of the said policy. It is contended that the respondent No.1-applicant was admitted in Artemis Hospital, Gurugram, on 16.07.2012 and remained admitted upto 19.07.2012 for the treatment of LT Parotid Enlargement and a payment of Rs.1,78,687/- had been made towards various bills raised by the Artemis Hospital, Gurugram. The claim for the above amount spent by the respondent No.1-applicant was submitted but only an amount of Rs.64,948/- was released. The release of remaining amount was denied by the petitioner-Insurance Company on the ground that the respondent No.1-applicant was not entitled to the same. Notice of the application was issued to the petitioner-Insurance Company. The petitioner-Insurance Company was duly served, however, it chose not to appear in the proceedings before the Permanent Lok Adalat (Public Utility Services), Gurugram. Resultantly, ex parte proceedings were initiated and an award was finally passed directing the petitioner-Insurance company to also pay the differential amount of Rs.1,13,739/- (Rs.1,78,687/- - Rs.64,948/-).

Learned counsel appearing for the petitioner agrees that upon coming to know of the ex parte award, an application for setting aside the ex parte award was immediately moved by the petitioner-Insurance Company before the Permanent Lok Adalat (Public Utility Services), Gurugram, giving details of the reasons for its inability to appear and admitting error about intimation not having been sent. It was

contended that the rejection of the claim of the respondent No.1-applicant was rightly done since the said charges and expenses were not covered under the policy document issued to the respondent No.1-applicant. However, the said application was also dismissed as being barred by limitation since the Award was passed on 13.05.2013 while the application was submitted on 04.07.2013.

Learned counsel for the petitioner-Insurance Company contends that at this stage, he does not press the case on merits and is restricting his claim only to the extent of being afforded an opportunity of proving its case before the Permanent Lok Adalat (Public Utility Services). He further submits that the entire amount as awarded by the Permanent Lok Adalat (Public Utility Services), Gurugram, already stands released to the respondent No.1-applicant in terms of the award and that the respondent No.1-applicant shall not suffer any prejudice or irreparable loss on account of the matter being adjudicated on merits whereas the non-adjudication of the issue shall have bearing on the other pending cases of the petitioner-Insurance company. He fairly submits that the equities can be balanced by awarding some costs in favour of the respondent No.1-applicant for the inconvenience caused to him.

Learned counsel for the respondent No.1-applicant, however, contends that the Permanent Lok Adalat (Public Utility Services), Gurugram, had specifically noticed that the petitioner-Insurance Company had chosen not to appear before the Permanent Lok Adalat (Public Utility Services) despite personal service as well and as such, there was no error or illegality in passing of the order directing to

proceed ex parte. He, however, does not raise any serious challenge to the award being set aside for adjudication on merits subject to suitable compensation being awarded to him for the delay and hardship caused to the respondent No.1-applicant and also does not dispute the fact that the entire awarded amount already stands released to the respondent No.1-applicant.

Accordingly, without going into the merits of the controversy regarding the legality/validity of the award or the decision taken by the petitioner-Insurance Company, the award passed by the Permanent Lok Adalat (Public Utility Services), Gurugram, dated 13.05.2013 (Annexure P-1), in Application No.215 of 2013 as also the order dated 12.11.2013 (Annexure P-3) passed in an application No.531 of 2013, are set aside subject to a payment of costs of Rs.25,000/- (Rupees Twenty Five Thousand Only) to be paid to the respondent/applicant No.1 within a period of 04 weeks from today. The case is ordered to be restored at its original Number. The parties shall appear before the Permanent Lok Adalat (Public Utility Services), Gurugram, on 08.02.2023 for further proceedings. The Permanent Lok Adalat (Public Utility Services), Gurugram, shall thereafter proceed to pass a final award as per law after affording opportunities to both the parties.

The petition stands allowed accordingly.

January 05, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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