2023:PHHC:053924

IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

202 **CWP-7188-2014**
Date of Decision: 11.04.2023

NARESH KUMAR AGGARWAL
... Petitioner

VERSUS

ORIENTAL INSURANCE COMPANY LTD AND ORS
... Respondents

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

Present: Mr. Prateek Rathee, Advocate
for the petitioner.

Mr. Tribhuwan Singla, Advocate for
Ms. Ritu Punj, Advocate for respondent No.1.

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VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the Award dated 26.02.2014 passed by respondent No.3-Permanent Lok Adalat (Public Utility Services), Gurugram, whereby the Application under Section 22 (C) of the Legal Services Authorities, Act, 1987 has been dismissed on the ground of lack of territorial jurisdiction. Liberty was, however, granted to the Petitioner-Applicant to move to the Appropriate Forum having territorial jurisdiction.

Briefly summarized facts of the present case are that the Petitioner-Applicant claims to have purchased a family floater policy bearing Policy No.271400/48/2013/2640 valid from 31.08.2012 to 30.08.2013. The aforesaid insurance policy included a medical coverage of hospitalization to the extent of Rs.5,00,000/-. The premium is claimed to have been duly deposited by the Petitioner-Applicant. It has been averred that prior to the purchase of the policy on the persuasion/motivation by the authorized representative/agent of the respondent-company, an assurance was given to him that all the hospitalization costs will be fully reimbursed. He contends that the Petitioner-Applicant was suffering from hypertension etc. for which he underwent hospitalization. A claim was thereafter, lodged with the respondent-Insurance Company, however, the same was not approved. The petitioner thus preferred an application under Section 22 (C) of the Legal Services Authority, Act, 1987.

Upon notice, reply was filed by the respondents before the Permanent Lok Adalat (Public Utility Services) wherein they had taken various pleas and objections including that there was non-disclosure of material information by the Petitioner-Applicant and about maintainability as well a sustainability of the claim.

Upon consideration of the respective contentions of the parties, the Permanent Lok Adalat (Public Utility Services), Gurugram came to a conclusion that the medical claim policy was issued by the Delhi Office of the respondent-Insurance Company and that even the claim was lodged by the Petitioner-Applicant at its Delhi Office. The Application was accordingly dismissed vide impugned order dated 26.02.2014 on the ground that the Permanent Lok Adalat (Public Utility Services), Gurugram had no jurisdiction to hear the aforesaid Application and the Petitioner-Applicant was advised to file an appropriate Application to the Forum having territorial jurisdiction.

Aggrieved thereof, the present petition has been filed. Notice of the writ petition was issued to the respondents, whereafter, they entered appearance. However, no written statement had been filed by the respondent No.1-Insurance Company and it placed reliance on the documents already on record to substantiate its arguments.

Learned counsel for the Petitioner-Applicant argues that the application was wrongly dismissed by the Permanent Lok Adalat (Public Utility Services) notwithstanding that the petitioner is a resident of Gurugram and that he had been allured by the Agent of the respondent-Insurance Company stationed at Gurugram to purchase the aforesaid policy. Further, the petitioner underwent the medical procedures/treatment at the hospital situated in Gurugram and the claim was also lodged from Gurugram itself. The petitioner was conveyed about repudiation of the claim at his address in Gurugram. He further contends the respondent-Insurance Company also has a branch office in Gurugram. It is further averred that the Legal Services Authority Act, 1987 holds that the Permanent Lok Adalat (Public Utility Services), would not be governed by the procedure as contemplated in the Civil Procedure Code, 1908 or the Indian Evidence Act, 1872, however, for the purposes of ascertaining the jurisdiction, the principles thereof may be adopted. He refers to Section 20 of the Civil Procedure Code, 1908- wherein it is specifically provided that a Court where the defendant carries on business would also exercise the jurisdiction. He additionally argued that the jurisdiction is also conferred on the Court where cause of action has arisen wholly or partially. The relevant provision of Section 20 of the Civil Procedure Code is extracted as under:

> ***"Section 20 of the C.P.C.***
>
> *(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or*
>
> *(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or*

personally works for gain, as aforesaid, acquiesce in such institution; or

(c) The cause of action, wholly or in part, arises."

Relying thereupon, he contends that the petitioner being a resident of Gurugram, the policy having been sold by the Agent of the respondent-Insurance Company stationed at Gurugram; the branch office of the respondent-Insurance Company being situated in Gurugram, the petitioner being medically treated at a Hospital situated in Gurugram; the claim having been submitted by the petitioner while being in Gurugram and the communication of the repudiation by the respondent-Insurance Company is at the address of the petitioner in Gurugram. Hence, it gives rise to a partial cause of action at Gurugram. Hence, the institution of proceeding before the Permanent Lok Adalat (Public Utility Services), Gurugram could not be held to be without jurisdiction.

Learned Counel for the respondent-Insurance Company contends that the office of the respondent-Insurance Company is situated in Delhi and that the policy in question had also been issued from Delhi. He further contends that the claim was also submitted at Delhi. Accordingly, the territorial jurisdiction vested only with the Courts/Forums exercising jurisdiction in Delhi and not in Gurugram. As such, the Application was rightly declined by the Permanent Lok Adalat (Public Utility Services), Gurugram.

I have heard the learned counsel for the respective parties and have gone through the documents and record available on case file with their able assistance.

Counsel for the respondent-Insurance Company has not controverted the averments raised in the writ petition to the effect that the petitioner is a permanent resident of Gurugram and was the beneficiary of the aforesaid policy at the aforesaid place. Further, he was medically treated at a hospital in Gurugram and the communication of repudiation was also addressed by the respondent-Insurance Company to the address of the petitioner in Gurugram. Further, the specific averment of the petitioner that the agent of the respondent-Insurance Company, who sold the policy to the petitioner, was working in their Branch Office at Gurugram has also not been denied. It has also not been controverted that the Legal Services Authority Act, 1987 does not define the territorial jurisdiction on Permanent Lok Adalat (Public Utility Services). Accordingly, the principles as enshrined under the Civil Procedure Code, 1908 may be taken into consideration for examining the validity of the proceedings instituted by an applicant and determining territorial jurisdiction.

Moreover, the object of the Legal Services Authority Act, 1987 is to facilitate easy remedy to an aggrieved for expeditious redressal of his grievance. It would be contrary to the object of the Act to force an applicant/consumer to travel to a place where office of respondent is located instead of filing a petition before the forum of his convenience which has jurisdiction. Moreover, the respondent-Insurance Company is in no way prejudiced considering that the branch office of the respondent-Insurance Company is also situated in the territorial jurisdiction of the said Permanent Lok Adalat.

The territorial jurisdiction in the present case would be governed as per the Civil Law in India. Section 20 CPC would vest jurisdiction in Court where the cause of action arose wholly or in part and also where the defendant carries on his business. In the case in hand, the respondent-Insurance Company has chosen not to file any reply and as such the following claim of the petitioner has remained undisputed:

(a) Petitioner is a resident of Gurugram.

(b) The policy was sold to him at Gurugram.

(c) The agent who booked the policy works in the office of respondent-Insurance Company at Gurugram.

(d) The respondent-Insurance Company has an office at Gurugram.

(e) He fell ill and was treated at Gurugram.

(f) The bill was submitted at Gurugram.

(g) The communication of rejection/repudiation was sent to Gurugram.

Hence, merely because the policy was issued and claim was rejected by the Delhi Office, jurisdiction of Courts at Gurugram would not be ousted. The test for ascertaining jurisdiction is "where a cause of action arose wholly or partly." The jurisdiction is not based on proportionate cause of action and hence such a test cannot be applied.

Once the Court approached has a jurisdiction, it cannot return the application merely because some other place also has a jurisdiction. It is incumbent upon a Court to examine the said aspect before rejecting the application. The Permanent Lok Adalat (Public Utility Services), Gurugram has, however, not examined the said aspect at all and is completely silent as to where any cause of action accrues within its jurisdiction. *Prima facie*, the undisputed facts do indicate and establish accrual of cause of action – even if partly – within its jurisdiction. The Award is, however, silent on the said front.

Taking into consideration the circumstances noticed above, the present petition is allowed and the Award dated 26.02.2014 passed by the Permanent Lok Adalat (Public Utility Services), Gurugram is set aside. The

Permanent Lok Adalat (Public Utility Services), Gurugram is directed to pass the Award afresh on merits after considering the rival submissions of the respective parties who shall appear before the Permanent Lok Adalat (Public Utility Services), Gurugram on 15.05.2023, whereafter the Permanent Lok Adalat (Public Utility Services), Gurugram shall proceed with the matter in accordance with law.

As the petition in hand has remained pending since 2014, it would be desirous that the Application is decided as expeditiously as possible.

Petition is allowed accordingly.

(VINOD S. BHARDWAJ)
JUDGE

11.04.2023.
rajender

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