IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

219 **CWP-2389-2019**
Date of Decision: 21.02.2024

IFFCO TOKIO GENERAL INSURANCE COMPANY LTD

... Petitioner

VERSUS

SHAMSHER SINGH AND ANR

... Respondents

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

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Present: Mr. Vishal Aggarwal, Advocate
for the petitioner.

Mr. Anil Ghanghas, Advocate
for respondent No.1.

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VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present case is to the Award dated 14.12.2017 (Annexure P-1) passed by Permanent Lok Adalat (Public Utility Services), Bhiwani, whereby the application moved by the respondent No.1-Applicant has been allowed and the petitioner-Insurance Company has been directed to pay the insured amount, as per the Insurance Policy, alongwith interest @ 12% per annum from the date of intimation of theft of the insured vehicle to the insurance company, till its, actual realization besides litigation expenses to the tune of Rs.5,500/-.

Learned counsel for the petitioner contends that the respondent No.1-Applicant got a vehicle Make Bolero SLX bearing registration No.HR-18A-7172 insured from the appellant vide policy/cover No.90693169, which was valid from 17.01.2015 to 16.01.2016. An application was submitted by the respondent stating therein that on 14.06.2015, the vehicle in question had been parked in front of his house in Village Leghan Hetwan and early in the morning on the next day i.e. 15.06.2015, the same was found missing. A complaint was accordingly submitted before the police on the same day whereupon an FIR No.230 dated 16.06.2015 under Section 379 IPC was registered at Police Station City Tosham. An insurance claim was thereafter submitted by the respondent-applicant with the petitioner-Insurance Company on 06.07.2015 i.e. after a period of 23 days. An Investigator was appointed by the petitioner-Insurance Company on receipt of the claim, who submitted his report to the effect that there was not only a delay of 23 days in intimation of theft to the petitioner-Insurance Company but also there was no insurable interest with the respondent No.1-Applicant since he had already sold the vehicle in question to one Rattan Singh son of Sheesh Ram about an year ago but the same had not been transferred in the name of the said Rattan Singh. The claim was thus repudiated.

Aggrieved thereof, an application under Section 22-C of the Legal Services Authorities Act, 1987 was preferred by the respondent No.1-Applicant and vide Award dated 14.12.2017, the same was allowed. The petitioner-Insurance Company was directed to pay the insured amount alongwith interest and litigation expenses as noticed above. Aggrieved thereof, the present petition has been filed.

Learned counsel for the petitioner-Insurance Company contends that Permanent Lok Adalat failed to take into consideration that the report of the Investigator establishes that there was no insurable interest vested in respondent No.1-Applicant and that the India Motor Tariff Rules specify in GR-17 that on transfer of ownership, the transferee is required to apply for transferring the vehicle in his/her favour within a period of 40 days from the date of transfer under the recorded delivery and that the insurance cover would be applicable only qua third party and cannot be said to vest any insurable interest in the respondent No.1-Applicant.

Responding to the abovesaid argument, counsel for the respondent No.1-Applicant contends that the abovesaid report submitted by the Investigator, deputed by the petitioner-Insurance Company, cannot be accepted at this stage since there is no document available on record on the basis whereof the transfer of the said vehicle in favour of Rattan Singh son of Sheesh Ram could be established and the respondent No.1-Applicant continued to be the registered owner of the vehicle. He further submits that the petitioner-Insurance Company has already deposited the Awarded amount and the same also stands released to the respondent No.1-Applicant.

I have heard the learned counsel for the respective parties and have also gone through the documents appended alongwith the present petition with their able assistance.

Learned counsel for the petitioner has been confronted with the judgment of the Hon'ble Supreme Court passed in the matter of ***"Surendra Kumar Bhilawe Versus The New India Assurance Company Limited"*** reported as ***(2020) 18 SCC 224*** wherein it was held that owner of the vehicle would mean a person in whose name the vehicle stands registered as on the date of the accident. Repudiation of the claim on the pretext of lack of insurable interest was declined by the Hon'ble Supreme Court in the above case and the claim of the registered owner was affirmed. The abovesaid judgment was also followed by this Court in case No. ***CWP-23790-2021*** titled as ***"Shri Ranjit Singh Versus The New India Assurance Company Limited and others"*** decided on 19.01.2024.

Even though an attempt is made by the counsel for the petitioner-Insurance Company to contend that abovesaid judgment of the Hon'ble Supreme Court does not deal with the issue of GR-17 as per India Motor Tariff Rules, however, the law is well settled that India Motor Tariff Rules cannot travel beyond the statutory Sections that have been interpreted by the Hon'ble Supreme Court and that in the event of any discrepancy, the substantive statutory provisions and its interpretation shall prevail upon the Rules.

Besides, a delay of 27 days in filing the claim is inconsequential since the matter was reported to the police immediately on the morning, when theft was detected, an FIR had been registered on the same day. Thus, a mere delay in raising a claim cannot be deemed fatal to the claim of the respondent-applicant.

As the matter has already been decided by the Hon'ble Supreme Court as regards insurable interest in the matter of ***Surendra Kumar Bhilawe (supra)*** which has also been followed by this Court in the matter of ***Shri Ranjit Singh (supra)***, the present writ petition is dismissed at this stage.

The Award dated 14.12.2017 (Annexure P-1) passed by Permanent Lok Adalat (Public Utility Services), Bhiwani cannot be said to suffer from any illegality, perversity, impropriety or misappreciation of evidence. The same is accordingly affirmed.

Dismissed accordingly.

(VINOD S. BHARDWAJ)
JUDGE

FEBRUARY 21, 2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No