IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

215 **CWP-9048-2019**
Date of decision: September 03, 2024

National Insurance Company Limited and another

....Petitioners

Versus

Sanjay Sharma and others

.....Respondents

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

Present:- Mr. R.C Gupta, Advocate for the petitioners.

Mr. Vishal Gupta, Advocate for respondent no.1.

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VINOD S. BHARDWAJ, J. (ORAL)

Present petition impugns the award dated 11.1.2019 passed by the Permanent Lok Adalat (Public Utility Services), Yamuna Nagar at Jagadhri.

Briefly the facts of the case are that one Indica car bearing registration No. HR-24J-6708, 2007 was owned by one Raj Kumar resident of Panchkula and he had purchased a private car package policy from petitioner no.1-National Insurance Company Limited, Yamuna Nagar, which was valid from 19.4.2013 to 18.4.2014 for an IDV of Rs.1,44,000/-. The registration certificate also reflected the name of said Raj Kumar as the owner of the vehicle in question. The said vehicle was purchased by the respondent no.1-Sanjay Sharma on 08.03.2013. After purchasing the vehicle, Mr. Sanjay applied for transfer of the vehicle in his name with the Registration Authority, Jagadhari but during the transfer process, the vehicle suffered damage on account of fire on 04.12.2013. A claim was made for damages by respondent no.1 (applicant) before the petitioner-National Insurance Company Limited. Spot survey was conducted by the authorised and duly enrolled Surveyor and Loss assessor, namely, Sandeep Kumar and also the regional surveyor, namely Rajesh Kumar. The loss was assessed to the tune of Rs. 1,44,000/- and the applicant was required to submit an affidavit for settlement of the claim i.e Rs.1,20,000/- on cash loss basis plus wreckage of the said car. However, the claim submitted by respondent no.1-Sanjay Sharma was repudiated by the petitioner on the ground that the registration certificate was transferred in favour of the applicant-respondent no.1- Sanjay Sharma much after the incident had already taken place.

Learned counsel for the petitioner contends that as per Section 157 of the Motor Vehicles Act, the insurance is transferred with effect from the date when the registration is transferred and since as on the date of the accident there was no insurable interest that vested with respondent no. 1. Hence, he cannot claim the loss. He further contends that Rajkumar, who still was, the registered owner on date of the incident, had chosen not to lodge any claim with the petitioner-Insurance Company for the said damages.

Learned counsel appearing for the petitioner further places reliance on the judgment of the Hon'ble Supreme Court in the case of ***M/s Complete Insulations Private Limited Versus New India Assurance Company Limited,***

1996 AIR (SC) 586, wherein *the claim of damages to the vehicle was denied as there was no agreement between the insurer and the transferee. Since the insurer had not transferred the policy of insurance in relation thereto to the transferee, the insurer was not liable to make good the damages to the vehicle*. Reliance is also placed on the judgment of the Hon'ble Supreme Court in the matter of ***Surendra Kumar Bhilawe Vs. The New India Assurance Company Limited reported as 2020 AIR (Supreme Court) 3149***. Counsel however contends that the aforesaid judgement has not attained finality as the issue has been referred to a Larger Bench.

Learned counsel on behalf of the respondents, however, contends that the above said factual narration actually misses out on certain crucial aspects. He submits that the vehicle in question was registered with the registering authority, Panchkula. As the respondent no.1-applicant was resident at Jagadhri, Yamunanagar, he applied for seeking NOC from the registering authority, Panchkula for registration of the said vehicle with the registering authority, Yamunanagar. The said NOC was granted by the registering authority, Panchkula on 25th June 2013. Subsequently, the registering authority, Yamunanagar sought confirmation/verification of the NOC granted by Registering Authority, Panchkula vide letter dated 4.09.2013 on the application of the respondent No.1. The requisite permission and approval by the registering authority, Panchkula was granted on 29.10.2013. The transfer of registration in favour of the respondent no.1 remained pending with the authority on account of the procedural compliances and was not attributable to any lapse on the part of the respondent, who had duly deposited all the statutory charges and had satisfied the procedural requirements as asked for from him.

Learned counsel for the respondents also places reliance on the judgement of the Hon'ble Supreme Court in the matter of ***MD Karnataka Road Transport Corporation and another Vs Thippamma and others reported as 2015 (4) RCR Civil 938***. The relevant portion is extracted as under:

> *24. The policy of insurance is contractual obligation between the insured and the insurer. It has not been shown that while entering into the aforesaid agreement of lease for hiring the buses, any of the provisions contained in the insurance policy has been violated. It has not been shown that owner could not have given bus on hire as per any provision of policy. It was the liability of the registered owner to provide the bus regularly, to employ a driver, to make the payment of salary to the driver and the driver should be duly licenced and not disqualified as provided in the agreement though buses were to be plied on the routes as specified by the KSRTC and hiring charges were required to be paid to the registered owner. In the absence of any stipulation prohibiting such an arrangement in the insurance policy, we find that in view of agreement of lease the registered owner has owned the liability to pay. The insurer cannot also escape the liability.*
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> *25. Apart from that what is provided under Section 157 of the Act of 1988 is that the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the*

> *motor vehicle is transferred with effect from the date of its transfer. Even if there is a transfer of the vehicle by sale, the insurer cannot escape the liability as there is deemed transfer of the certificate of insurance. In the Instant case it is not complete transfer of the vehicle it has been given on hire for which there is no prohibition and no condition/policy of insurance as shown to prohibit plying of vehicle on hire. The vehicle was not used for inconsistent purpose. Thus, in the absence of any legal prohibition and any violation of terms and conditions of the policy, more so, in view of the provisions of Section 157 of the Act of 1988, we are of considered opinion that the insurer cannot escape the liability.*

Reliance is also placed on the judgement of the Hon'ble Supreme Court in the matter of ***Maliamma Versus National Insurance Company Limited and Others reported as 2015 (1) SCC (Civil) 246***. The relevant portion is extracted as under:

> *15. In view of the above discussion we are of the considered view that as on the date of accident, the deceased workman was in the course of employment of Jeeva Rathna Setty in whose name the ownership of the vehicle stood transferred and the said vehicle was covered under a valid insurance policy, the High Court ought not have simply brushed aside the decision of the Commissioner fastening joint liability on the Insurance Company in the light of the deeming provision contained in Section 157 (1) of the M.V. Act.*

He also refers to a judgment of this Court in ***United India Insurance Company Limited Vs Subhash and another reported as 2018(2) PLR 67*** wherein an order passed by the Lok Adalat in favour of the transferee was upheld and the repudiation of the claim by the Insurance Company was set aside. Reliance is also made to the judgment of the Hon'ble Supreme Court in the matter of ***Firdaus Versus Oriental Insurance Company Limited and Others passed in Civil Appeal Nos. 9310 of 2017*** decided on ***14th July 2017***. The relevant portion is extracted as under:

> *14. In Rikhi Ram Case (Supra), although this Court considered the provisions of Motor Vehicles Act, 1939, but the Motor Vehicles Act, 1988 also contains the similar provisions under Section 146, 147 and 157 of the Act. Hence, the ratio of judgment in Rikhi Ram case is fully applicable in the facts of the present case also.*
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> *15. Section 157 of the Motor Vehicles Act, 1988 clinches the issue. Section 157 sub-section(1) contains the deeming provision that "the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of this transfer. "Sub-section(1), Section 157 which is relevant is quoted as below:*
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> *"157. Transfer of certificate of insurance (1) Where a person in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter transfers to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor*

> *vehicle is transferred with effect from the date of its transfer.*
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> *[Explanation- For the removal of doubts, it is hereby declared that such deemed transfer shall include transfer of rights and liabilities of the said certificate of insurance and policy of insurance).”*
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> *16. In view of the above, it is not necessary for us to give any concluded finding regarding ownership of the vehicle No.HR 2 G 1875 on the date of accident for the purpose of this case. In either of the eventuality, i.e. whether defendant no.1 was the owner of the vehicle on the date of the accident, or defendant no.4 was the owner of the vehicle, the liability of Oriental Insurance Co. Ltd. continues and Workmen compensation Commissioner has rightly fastened the liability on the Insurance Company. The remand made by the High court to find out as to whether Parvez Khan was an employee of the defendant no.1 or not, was unnecessary.*

Counsel for the respondent further contends that the registered owner had also given an affidavit that he does not intend to claim any benefits with respect to the damages qua the aforesaid vehicle and has no objection in case of its release in favour of the respondent no.1. He contends that the judgments cited by the counsel for the petitioner-insurance company are not applicable to the facts of the case since the formalities for the registration had already been undertaken by him and that the delay in issuance of the final registration certificate in favour of respondent no.1 was attributable to the officials of the registering authority. He cannot thus be prejudiced on account of delay by the registering authority officials in executing an expeditious transfer of registration especially when there was no deficiency or short coming attributable to the respondent as all statutory dues and charges had already been deposited. Much emphasis is also laid that since the original owner has already submitted an affidavit about giving up his claim in respect of the loss so caused, the petitioner-Insurance Company cannot claim of any prejudice.

I have heard the learned counsel appearing on behalf of the parties and have also perused the judgments cited by the counsel with their able assistance.

For the facility of reference, Section 157 of the Motor Vehicles Act, 1988 is extracted as under:

> *157. Transfer of certificate of insurance. - (1) Where a person, in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter, transfers to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer.*
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> *[Explanation- For the removal of doubts, it is hereby declared that such deemed transfer shall include transfer of rights and liabilities of the said certificate of insurance and policy of insurance).”*

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It is evident from the perusal of the said clause that the insurance is transferred in the favour of the transferee of the vehicle automatically with effect from the date of the transfer of registered ownership. The contention of the petitioner, however, is that registration was transferred in favour of respondent no.1 only on 8th March 2014 i.e after the date of incident and thus the insurance company is not liable to pay the damages since Rajkumar was still the registered owner.

It is undisputedly not a case where the original owner is also staking claim with respect to the damages caused to the said vehicle. It would not lie in the mouth of the petitioner- Insurance company to contend that even though, it would have no objection to pay the claim if submitted by the registered owner, however, it will not transfer the said money in favour of any person, to whom the registered owner has no objection to such a transfer. The judgement of Hon'ble Supreme Court in the matter ***M/s Complete Insulations Private Limited (supra)*** relied upon by the counsel for the petitioner is not applicable to the facts of the present case, since respondent no.1 had already taken all steps at his ends for seeking the transfer of the registration of the vehicle in his favour but the delay was attributable solely to the acts and omissions on the part of the registering authority. Although an effort has been made by the petitioner to place reliance on Sub Section 2 of Section 157 of the Motor Vehicles Act to contend that an intimation of transfer had to be sent within a period of 2 weeks. However, the said clause would not be applicable to the facts of the present case since the transfer of the vehicle in favour of respondent no.1 took place on 8.3.2014 and the claim with respect to the loss caused to the vehicle had already been lodged with the petitioner-Insurance Company in December itself.

Section 22 D of the Legal Services Authorities Act 1987 specifically provides that the Permanent Lok Adalat shall be guided by the principles of equity, objectivity, fairness, principles of natural justice and other principles of justice while considering the applications submitted to it. The discretion exercised by the Permanent Lok Adalat is not in conflict with law or cannot be held to be illegal or based upon incorrect appreciation of the evidence.

I find that the award passed by the Permanent Lok Adalat does not suffer from any of the aforesaid disqualifications. The present petition is dismissed and the award dated 11.1.2019 passed by the Permanent Lok Adalat for Public Utility Services, Yamuna Nagar at Jagadhri (Haryana) in application/case No. 1972/YNR/2015 filed by the respondent no.1 is upheld.

(VINOD S. BHARDWAJ)
JUDGE

September 03, 2024
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Whether speaking/reasoned Yes/No
Whether reportable: Yes/No