

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.116

LPA-1060-2024

Date of decision : 30.04.2024

Sanjeev Kumar

..... Appellant

Versus

The Oriental Insurance Company Ltd.
Chandigarh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
 HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr.Rakesh Kaundal, Advocate, for the appellant.

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DEEPAK SIBAL, J. (Oral)

1. Through the instant intra court appeal challenge is made to the judgment dated 29.01.2024 passed by a learned Single Judge of this Court allowing the writ petition filed by the respondent-insurance company through which petition the respondent-insurance company had challenged the award passed by the Permanent Lok Adalat, Public Utility Services, Kurukshetra (for short, the Lok Adalat).
2. The appellant owned a car bearing registration No.HR-78A-6326. The car was insured with the respondent-insurance company. On 29.10.2016 the car met with an accident. As per the appellant the said accident took place on account of sudden appearance of a stray animal (Nil Gai) in front of the car. The said accident resulted in the car suffering total damage. Intimation of the accident was given to the respondent-insurance company. A surveyor appointed by the respondent-insurance company assessed the damage to the car on the basis whereof the appellant made a claim to the respondent-insurance company which was repudiated on the ground that the car in question, at the time of the accident, as claimed by the appellant, was not being driven by Mahavir Singh. The repudiation of the appellant's claim was challenged before the Lok Adalat. On being put to notice, the respondent-insurance company appeared before the Lok Adalat and filed its objections which included the different versions given by the appellant as to who, at the time of the accident, was driving the car. When efforts made for an amicable resolution of the dispute proved

futile the appellant's claim was adjudicated upon by the Lok Adalat resulting in the issuance of directions to the respondent-insurance company to pay to the appellant Rs.5,02,207/- alongwith litigation expenses and interest at the rate of 7% per annum.

3. Through filing of a writ petition the respondent-insurance company challenged the Lok Adalat's award. Several grounds were taken by the respondent-insurance company which included contradictions in the claim made by the appellant with regard to the person driving the car at the time of the accident. A learned Single Judge of this Court examined the evidence led by the parties before the Lok Adalat and was of the view that there were material contradictions in the appellant's claim which had been overlooked by the Lok Adalat. Resultantly, the award of the Lok Adalat was set aside. The judgment of the learned Single Judge is the subject matter of challenge through the instant intra court appeal.

4. Learned counsel for the appellant has been heard.

5. In the claim made by the appellant he had stated that at the time of the accident the car in question was being driven by Mahavir Singh whereas at a later stage in his affidavit dated 03.12.2016, which had also been filed with the respondent-insurance company, the appellant claimed that at the time of the accident it is he who was driving the vehicle. However, at the time when the matter was being investigated by the respondent-insurance company, Satish Kumar, who is the appellant's brother, got recorded his statement that at the time of the accident it was he who was driving the vehicle in question. Thus, three different versions came to the fore and all these versions were at the behest of either the appellant or his family members.

6. In the light of the afore contradictions and in the absence of any further evidence led by the appellant in this regard it became virtually impossible for the respondent-insurance company to determine as to who, at the time of the accident, was driving the car. Resultantly, it could not be found out as to whether at the time of the accident the driver of the car was holder of a valid driving licence.

7. There were contradictions on the record also with regard to the extent of damage to the car and the reason for such damage. As per the surveyor damage had been caused by the crane when the car was transported from the accident site to the workshop. The surveyor/investigator further found that the damage to the car had also been caused when it struck against a milestone. The report of the surveyor/investigator was supported by the crane driver who, while appearing before the Lok Adalat, had stated that the car in question had got damaged after hitting a milestone. However, the appellant claimed that the accident had been caused when a stray animal (Nil Gai) suddenly appeared on the highway against which the car had struck.

8. There are material contradictions in the appellant's claim as to who was the driver of the car at the time of the accident, which contradictions remain unresolved even before us. In the light of these contradictions it is virtually impossible to find out if the driver of the car at the time of the accident was or not holder of a valid driving licence. There was also enough evidence before the Lok Adalat contradicting the cause of the accident as had been projected by the appellant. However, without advertng to these issues the Lok Adalat went on to accept the appellant's claim. The learned Single Judge is found to have extensively referred to the findings of the Lok Adalat and the evidence in this regard and rightly set aside the Lok Adalat's award.

9. In the light of the afore discussion, we find no error in the order of the learned Single Judge.

10. Dismissed.

[DEEPAK SIBAL]
JUDGE

30.04.2024
shamsher

[DEEPAK MANCHANDA]
JUDGE

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