

IN THE PUNJAB AND HARYANA HIGH COURT AT  
CHANDIGARH

226-1

CWP-9780-2020

ORIENTAL INSURANCE COMPANY LIMITED AND ANR

... Petitioners

VERSUS

M/S ABHISHEK INDUSTRIES AND OTHERS

... Respondents

A N D

226-2

CWP-2897-2022

Date of Decision: 06.02.2024

M/S ABHISHEK INDUSTRIES

... Petitioner

VERSUS

ORIENTAL INSURANCE COMPANY LIMITED AND ORS

... Respondents

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

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Present: Mr. Ashwani Talwar, Advocate and  
Mr. Sehaj Mahajan, Advocate  
for the petitioner in CWP-9780-2020 and  
for respondents No.1 and 2 in CWP-2897-2022.

Mr. Dinesh Arora, Advocate for the petitioner  
in CWP-2897-2022 and for respondent No.1  
in CWP-9780-2020.

Mr. Arvind Rajotia, Advocate for  
Mr. Sumit Batra, Advocate (*through video conferencing*)  
for respondent No.2 in CWP-9780-2020 and  
for respondent No.3 in CWP-2897-2022.

Mr. Arjun Singh, Advocate  
for respondent No.3 in CWP-9780-2020 and  
for respondent No.4 in CWP-2897-2022.

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VINOD S. BHARDWAJ, J. (ORAL)

Both the parties i.e. the Insurance Company as well as the  
Claimant M/s Abhishek Industries have preferred their respective writ petitions

against the Award dated 04.12.2019 passed by the Permanent Lok Adalat (Public Utility Services), Rohtak in Application No.1036 of 2018. Hence, they are being dealt with together.

While the counsel for the petitioner-Insurance Company contend that the Permanent Lok Adalat (Public Utility Services), Rohtak committed an error in assessing the percentage of 75% of the total loss assessed against loss towards building notwithstanding that the Surveyor had assessed the loss towards building as Rs.28,929/-. The Permanent Lok Adalat (Public Utility Services), Rohtak, without any tangible basis and objectivity, took the entire summary of total loss for Rs.5,02,964/- and assessed 75% of the said total loss to be the loss towards building ignoring the detailed finding recorded by the Surveyor pegging the loss of building at Rs.28,929/-.

On the other hand, the respondent-Applicant has disputed the Surveyor's report by averring that the sample drawn by the Surveyor deputed by the petitioner-Insurance Company had not been as per proper sampling and the results showing 'lead' content are grossly on a lower side.

Counsel for the petitioner on behalf of the claimant M/s Abhishek Industries however fairly concedes that the issues of sampling and assessment of loss would have required leading of affirmative evidence by the respective parties and that such intricate issues could not have been decided in summary proceedings before the Permanent Lok Adalat.

The counsel for the applicant-petitioner in CWP-2897-2022 thus prays that he may be permitted to withdraw the application submitted under Section 22-C of the Legal Services Authorities Act, 1987 before the Permanent Lok Adalat and may be granted liberty to pursue his claim by way of instituting

an appropriate claim petition/civil suit or any other legal proceedings before a competent Court/Forum and to establish the loss by leading evidence.

Counsel appearing on behalf of the petitioner-Insurance Company in CWP-9780-2020 has no objection to the withdrawal of the initial application, however, he contends that pursuant to the order dated 14.07.2020 passed by this Court, an amount of Rs.6,00,000/- had been deposited by the petitioner-Insurance Company and the same has been released in favour of the claimant-petitioner in CWP-2897-2022. He contends that since the claimant-petitioner wants to withdraw the initial application and take recourse to his alternative remedies, the amount already released in his favour may be ordered to be returned.

He, however, does not dispute that the loss assessed by the Surveyor appointed by the petitioner-Insurance Company itself was Rs.4,74,035/- and Rs.28,929/- making a sum total of Rs.5,02,964/-.

Learned counsel for the petitioner-applicant - M/s Abhishek Industries undertakes to refund the differential amount over and above Rs.5,02,964/-, within a period of one month from today and submits that in the event of a claim/proceedings being initiated, the amount already released in favour of the petitioner-M/s Abhishek Industries be set off, in an event a higher compensation is awarded.

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.

I find that the stand adopted by the parties is fair and reasonable.  
The prayer made by the counsel for the petitioner-applicant - M/s Abhishek

Industries in CWP-2897-2022 is allowed. The petitioner-M/s Abhishek Industries is permitted to withdraw the application filed before the Permanent Lok Adalat (Public Utility Services), Rohtak under Section 22-C of the Legal Services Authorities Act, 1987 and all consequential proceedings arising therefrom with liberty to pursue his alternative remedies in accordance with law. Consequently, the Writ Petition No.9780-2020 filed by the petitioner-Insurance Company is also disposed of as having been rendered infructuous.

Subject to the petitioner-applicant-M/s Abhishek Industries refunding the amount over and above Rs.5,02,964/-, it is at liberty to take recourse to the efficacious alternative remedies for seeking determination of its loss and for seeking award of compensation as per law.

The period during which the proceeding remained pending before the Permanent Lok Adalat (Public Utility Services), Rohtak as well as before this Court, shall be taken into consideration while computing limitation, in the event the applicant-petitioner - M/s Abhishek Industries seeks to avail any alternative efficacious remedies before a competent Court/Forum.

Both the petitions stand disposed of accordingly.

Photocopy of this order be placed on the file of another connected case.

**FEBRUARY 06, 2024**  
*rajender*

**(VINOD S. BHARDWAJ)**  
**JUDGE**

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