IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

233 **CWP-7933-2022 (O&M).**
Date of Decision: 26.11.2024.

Parshotam Singla

.. Petitioner

Versus

The Permanent Lok Adalat(Public Utility Services) Fatehgarh Sahib and others

... Respondents

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

Present: Mr. Vijay Lath, Advocate
for the petitioners.

Mr. Sanjeev K. Arora, Advocate
for respondents No.2 and 3.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the award dated 30.07.2018 (Annexure P-3) passed by the Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib (respondent No.1).

Briefly stated the facts of the present case are that the petitioner-applicant moved an application before the Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib under Section 22-C of the Legal Services Authorities Act, 1987 stating that he had purchased an insurance policy from the respondent-Insurance Company against tractor bearing No.PB-57A-7924 along with one trolley. The said vehicle, however, was stolen on 28.11.2013 from Village Kalal Majra, from a Kiln site, regarding which an FIR was also got registered. Intimation was also sent to the Insurance Company. However, the claim was repudiated by the respondents on the grounds of delay in intimation of the incident. In view thereof, the above application was preferred.

On notice, the respondent-Insurance Company filed its reply before the Permanent Lok Adalat specifically to the effect that the intimation to the police was sent on 24.02.2014 i.e. after about three months of the incident, whereupon FIR No.31 was registered. Thus, it is submitted that the petitioner, by his conduct in an inordinate delay in sending the information to the police, has committed violation of essential terms and conditions of the policy and has failed to take effective and immediate steps to mitigate the loss. Hence, the claim has been rightly declined.

When the conciliation proceedings failed to fructify in an agreed settlement amongst the parties, adjudication under Section 22-C (8) of the Legal Services Authorities Act, 1987 was undertaken.

The application submitted by the petitioner was dismissed by the Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib, after consideration of the evidence, vide award dated 30.07.2018. The operative part of the same reads thus:-

> *"11. We have heard the Ld. counsel for the parties and have gone through the file very carefully.*
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> *12. Ld. counsel for the applicant has argued that the applicant purchased the insurance policy from the respondents and the cover note was Ex.A1 and the tractor bearing number PB57A7924 was insured. The said tractor was stolen on 28.11.2013 from Village Kalal Majra from kiln site P.S. Samrala Distt. Ludhiana. The chowkidar namely Om Parkash informed the applicant and the applicant directed the said Om Parkash to inform the police at Police Post Bardala P.S. Samrala. On the next date the applicant informed respondent insurance company through officials Narinder Takyar and which was informed to the*

applicant that the claim lodged after registration of the FIR. Applicant alongwith said Om Parkash visited the police post Bardala and P.S. Samrala but they registered on 24.2.2014. The respondents illegally repudiated the claim of the applicant vide letter dated 12.8.2014 Ex.A3 after considering the reply of the applicant issued letter Ex.A4. It has been argued that respondent insurance company has repudiated the claim on flimsy ground and caused lot of mental tension and harassment and the applicant is entitled to the insurance claim of the said tractor alongwith interest as well as compensation for harassment and litigation expenses.

13. On the other hand Ld. counsel for the respondent insurance company has argued that the tractor in question was stolen on 28.11.2013 but first time the report was lodged on 24.2.2014 after three months of the occurrence. It has been argued that prior to that the applicant not intimated either the Police or the respondent insurance company and after 24.2.2014 the respondent insurance company received the claim Ex.R2 dated 27.2.2014 and the respondent insurance company deputed the investigator to investigate the claim and the investigator N.K. Sehgal vide report Ex.R4 concluded that the occurrence is dated 28.11.2013 but the matter was reported on 24.2.2014. Inspite of writing letter dated 27.2.2014 and telephonic request and E-mail dated 4.8.2014 no reply was filed by the applicant. It has been argued that the claim of the applicant was rightly repudiated vide letters Ex.R6 and Ex.R7 and the application may be dismissed.

14. We have considered the submissions made by the Ld. counsel for the parties.

15. The tractor bearing registration number PB57A7924 was insured with the respondent insurance company and *it was stolen on 28.11.2013 from Village Kalal Majra from the Kiln side PS Samrala District Ludhiana. As per the applicant he immediately informed Chowkidar Om Parkash and directed Om Parkash to inform the police of PP Bardala P.S. Samrala. As per the applicant he informed the respondent insurance company through its official Narinder Takyar. This version of the applicant is not supported by the affidavit of the said Om Parkash or the said official Narinder Takyar. The applicant has filed his own affidavit Ex.AW1/A. The applicant informed the respondent insurance company vide intimation letter dated 27.2.2014 Ex.R2/Ex.A5 and filled the claim form Ex.R3. The investigator investigated the matter and gave report Ex.R4 and concluded that there is delay of three months. FIR Ex.A2 was registered on 24.2.2014.*

16. The applicant has failed to bring on record any evidence to prove that he intimated the respondent insurance company immediately. The applicant has also failed to prove that he informed the police station immediately. The argument and the plea that the applicant has been orally requesting the police station to register FIR or the insurance company to pay the claim is not tenable.

17. The Hon'ble Supreme Court in case Om Parkash Vs. Reliance General Insurance and Anr. Civil Appeal No. 15611 of 2017 decided on October 4, 2017 has held that the notice shall be given in writing to the company immediately upon the occurrence of accidental loss or damage. Para 10 of the judgment of the Hon'ble Supreme Court is reproduced as follow for reference:

> *"The Insurance policy states that notice shall be given in writing to the company immediately upon the occurrence of any accident loss or damage in*

> *the event of any claim and thereafter the insured has to give all such information and assistance as the company may require."*
>
> *18. There is delay of about three months to intimate the police as well as insurance company and this undue delay has not been explained by the applicant and as such on this score alone the applicant is not entitled to claim amount or interest or any compensation from respondent insurance company. The application filed by the applicant is without any basis and being without merit is dismissed. Accordingly the Award is passed against the applicant."*

Aggrieved thereof, the present writ petition has been filed.

Learned counsel for the petitioner places reliance on the judgment of the Hon'ble Supreme Court in the matter of **Jaina Construction Company Vs. Oriental Insurance Company Limited & anr.** reported as **2022 (4) SCC, 527**, **Gurshinder Singh Vs. Shriram General Insurance Co. Ltd. & anr.** reported as **2020 (11) SCC 612**, and **Om Prakash Vs. Reliance General Insurance and anr.** reported as **2017 (9) SCC 724**, to contend that delay in intimation is not sufficient ground to deny the insurance benefits.

Learned counsel for the respondent-Insurance Company, however, contends that the said judgments are not applied to the facts of the present case since the claim was awarded in favour of the assured in the said cases where there was prompt reporting to the police and the FIR had also been promptly registered but the delay was only in intimation of the loss to the Insurance Company. It was in the said circumstances that the Hon'ble Supreme Court held that the said delay would not be fatal to the insured and that he can still be compensated since there was no lapse in sending the intimation to the police which is an independent investigating agency and empowered to act. He submits that as against the facts in the abovesaid cases, before the Hon'ble Supreme Court, the petitioner in the present case has approached the police only on 24.02.2014 and to the insurance company on 27.02.2014 even though incident of theft is stated to have taken place in November 2013. Hence, there was a delay of more than three months in approaching the police.

I have heard learned counsel for the parties and have gone through the documents available on record.

The above factual aspects about the theft having taken place in November 2013 and the police being informed in February 2014 and the insurance company being intimated even later is not in dispute. The judgment cited by the counsel for the parties are not applicable to the facts of the present case as distinguished above and is instead nearer to the law laid down by the Hon'ble Supreme Court in the matter of **Om Prakash Vs. Reliance General Insurance and anr.** in Civil Appeal No.15611 of 2017 decided on 04.10.2017. Operative part of the judgment reads thus:-

> *10. Condition No.1 of the Insurance Policy states that notice shall be given in writing to the company immediately upon the occurrence of any accidental loss or damage in the event of any claim and thereafter the insured has to give all such information and assistance as the company may require.*

Learned counsel for the petitioner is neither in a situation to respond to the same nor has offered any satisfactory explanation as to why he did not approach the police authorities immediately on occurrence of theft and what were the circumstances that precluded him from approaching the police. A further query was also posed to him that even though the award was passed in the year 2018, however, the present writ petition was filed by him in the year 2022, he is also not in a situation to respond to the same or give reasons for a nearly four years delay.

Since the notice of motion was issued solely on a contention that delay in reporting the incident cannot be ground to repudiate a claim, whereas the judgments of ***Jaina Construction Company's case (supra), Gurshinder Singh's case (supra)***, ***Om Prakash's case (supra)*** on the argument above are not attracted to the facts of the present case, I find that there is no illegality, impropriety or perversity in the award dated 30.07.2018 passed by the Permanent Lok Adalat (Public Utility Services), Fatehgarh Sahib.

The petition is, accordingly, dismissed.

26.11.2024. **(VINOD S. BHARDWAJ)**
monika **JUDGE**

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