



**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

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CWP-20436-2024
Date of Decision: 23.08.2024

THE ORIENTAL INSURANCE COMPANY LIMITED

..... Petitioner

VERSUS

**PERMANENT LOK ADALAT, PUBLIC UTILITY SERVICES,
RUPNAGAR**

.... Respondents

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

Present: Mr. Sahil Abhi, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the writ petition is to the Award dated 29.01.2024 on the ground that the Permanent Lok Adalat (Public Utility Services), Rupnagar has illegally and unlawfully allowed the application filed by the respondent-Insured and has directed the petitioner-Insurance Company to pay the assessed loss to the tune of Rs. 2,34,760/- alongwith the compensation towards harassment and litigation expenses.

2. Briefly summarized the facts of the present case are that the respondent-applicant had purchased a New Ashok Leyland Ecomet on

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29.08.2018 which was an open body truck from Yasodha Motor Private Ltd. Village Nangli, Post Office Barog, Tehsil and District Solan. The same was got financed by the Yasodha Motor Private Ltd. from Indusind Bank Ltd. and temporary registration No. HP-14-DT-4401 was issued. At the time of purchase, the said open body truck was insured with the petitioner-Insurance Company and a sum of Rs. 49,970/- had been paid towards the Insurance charges. The respondent-applicant applied for seeking a permanent registration number for the said truck from the Transport Department and also deposited the Registration and other statutory fee/charges to the Transport Department against receipt dated 02.10.2018. The body of the said truck was thereafter got fabricated on the chassis and the vehicle was passed for fitness on 03.10.2018 by the Government of Punjab, Department of Transport, S.A.S Nagar, Mohali. The same was valid upto 03.03.2020. Registration No. PB-65-AT-6076 was allotted to the petitioner. However, on 01.11.2018, the vehicle of the applicant-respondent met with an accident at Village Fiddey and the front of the vehicle was totally damaged in the said accident. Intimation in this regard was sent to the petitioner-Insurance Company which deputed a Surveyor. Inspection of the vehicle was conducted on the spot, photographs were taken and verification was also carried out. All formalities for reimbursement of the loss caused were fulfilled and the documents were submitted to the

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Surveyor, who assessed the repair bill to the tune of Rs. 2,34,760/-. The respondent-applicant had approached the petitioner-Insurance Company on numerous occasions requesting for release of the repair amount in favour of Yosodha Motors Pvt. Ltd. as the vehicle stood repaired but the same was delayed on one pretext or the other. Eventually, the petitioner-Insurance Company conveyed its refusal to release the payment vide communication dated 02.07.2019 on the ground that the claim could not be reimbursed since the vehicle was being driven without a Registration Certificate and a route permit.

3. Aggrieved thereof, an application under Section 22-C of the Legal Services Authorities Act, 1987 was filed by the petitioner before the Permanent Lok Adalat averring that he had already submitted an application for issuance of the Registration Certificate on 02.10.2018 and had deposited all the requisite fee and statutory charges. The permit could be applied for only after receipt of the Registration Certificate. Further, the vehicle in question was not used for any transport purposes for carrying goods or for any other commercial purpose at the time of accident. The same was empty and was being taken to the house of the respondent-applicant where the yard for parking of the vehicle is situated at Village Ghanauli.

4. On issuance of notice, the petitioner-Insurance Company had entered appearance and raised various objections and justified the



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repudiation of the claim averring that the truck in question was being plied in violations of the provisions of the Motor Vehicles Act, 1988 and the limitations for use of the transport vehicle. Counsel for the Insurance Company also submitted that the applicant was using the vehicle without route permit and the accident had occurred in an area where the respondent-Insured had no route permit. He further averred that there was no valid registration Certificate issued to the vehicle and as such the petitioner-Insurance Company was not liable to reimburse the damage so caused and the claim was rightly repudiated.

5. On the failure of the amicable settlement of the issue, adjudication under Section 22-C (8) of the Legal Services Authorities Act, 1987 was undertaken.

6. Parties were heard and on consideration of the rival arguments, the Permanent Lok Adalat (Public Utility Services), Rupnagar allowed the application and directed the petitioner-Insurance Company to reimburse the total assessed loss to the tune of Rs 2,34,760/- alongwith an amount Rs. 10,000/- towards harassment and Rs. 10,000/- towards litigation expenses. The operative part of the order reads thus:-

10. As per the above discussion it proved that the truck owned by the applicant has been got insured from the respondent on 29.08.2018 vide policy Ex.A4. The said truck



met with accident on 01.11.2018. The applicant duly informed the respondent regarding the accident and the vehicle was got repaired from Yasodha Motors Pvt. Ltd. Patiala. The claim of the applicant has been rejected on the ground that applicant was playing the vehicle without route permit and R.C. However as per receipt Ex.A2 dated 02.10.2018, applicant deposited the requisite fee for registration of the vehicle with the RTA SAS Nagar and RC was also issued on 02.11.2018 which is Ex.A3. It means that on the date of accident i.e. 01.11.2018 the applicant has already applied to get the registration certificate of the said vehicle with the competent authority. It does not mean that the applicant is playing the vehicle without RC on 01.11.2018 i.e. the date of accident as he has already applied for getting the registration certificate. It hardly affects the case of the applicant if the RC has been issued to the applicant on 02.11.2018 by the competent authority. Even otherwise, no objection has been raised by the registration authority while issuing the RC Ex.A3 to the applicant. Therefore, this Adalat comes to the conclusion that on the date of accident i.e. 01.11.2018, the applicant was playing the vehicle after applying for the RC with the competent authority and it cannot be considered that he was playing the vehicle without RC.

11. As regards the route permit is concerned, it is the case of the applicant that he was not using the vehicle for commercial purpose at the time of accident. Moreover there is no case set up by the respondent that the vehicle was used for carrying the goods or for any commercial purpose at the



time of accident. Therefore the respondent cannot reject the claim of the applicant merely on the ground that the vehicle was used without permit at the time of the accident. As the vehicle was not used for commercial purpose at the time of accident, therefore, there is no need of permit for the vehicle to play on the road. As such this Adalat comes to the conclusion that the claim of the applicant for accidental vehilce has been wrongly repudiated by the respondent. As in this case Surveyor was deputed by the respondent to assess the loss of the vehicle. As per report Ex.R4 of Sh. KPS Oberio Surveyor that total loss assessed to amount Rs. 2,34,760/-. Accordingly the application of the applicant is allowed and the respondent is directed to pay the claim of the loss of the vehicle as per the report of the Surveyor Ex.R4 as repair charges. The respondent is also directed to pay Rs. 10,000/- as harassment and mental agony to the applicant. The respondent is also directed to pay Rs. 10,000/- as litigation expenses. The above said amount shall be paid within three months from the date of Award failing which the respondents are liable to pay the awarded amount along with interest @9% p.a. from the date of award till realization of the awarded amount. Award is passed accordingly. File be consigned.”

7. Aggrieved thereof, the petitioner-Insurance Company has approached this Court.

8. Learned Counsel appearing on behalf of the petitioner has vehemently raised the following arguments-



- i) That the respondent-Insured was not having a Registration Certificate for plying the vehicle at the time of accident
- ii) That the respondent-Insured was also not having a valid route permit to take the vehicle to the place where it met with an accident.

9. I have heard learned Counsel appearing on behalf of the petitioner and have gone through the documents appended alongwith the present writ petition with his able assistance.

10. So far as the contention of the petitioner with respect to the vehicle not having a valid Registration Certificate as on the date of the accident is concerned, he has been confronted with the judgment of the Hon'ble Supreme Court in the matter of ***“United India Insurance Company Limited versus Sushil Kumar Godara”*** reported ***as (2021) 14 SCC 519*** wherein the Insurance Company had been held liable to pay the claim once the owner had submitted an application for Registration of the vehicle and had deposited all statutory charges. Learned Counsel for the petitioner fairly concedes that the said aspect of the case of the applicant-respondent would be covered by the judgment of the Hon'ble Supreme Court against the petitioner-Insurance Company. He, however, had laid much emphasis on the absence of the route permit. Reference was made to Section 66 of the Motor Vehicles Act, 1988 and to contend that the vehicle having been used as a Transport vehicle in violation of



the terms and conditions and without obtaining a route permit, the claim could not be awarded.

11. Section 66 of the Motors Vehicles Act, 1988 is extracted as under:-

“66. Necessity for permits.—(1) No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorising him the use of the vehicle in that place in the manner in which the vehicle is being used:

Provided that a stage carriage permit shall, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a contract carriage:

Provided further that a stage carriage permit may, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a goods carriage either when carrying passengers or not:

Provided also that a goods carriage permit shall, subject to any conditions that may be specified in the permit, authorise the holder to use the vehicle for the carriage of goods for or in connection with a trade or business carried on by him.

Provided also that where a transport vehicle has been issued any permit or permits, as well as a licence under this

Act, such vehicle may be used either under the permit, or permits, so issued to it, or under such licence, at the discretion of the vehicle owner.]

(2) The holder of a goods carriage permit may use the vehicle, for the drawing of any public or semi-trailer not owned by him, subject to such conditions as may be prescribed:

[Provided that the holder of a permit of any articulated vehicle may use the prime-mover of that articulated vehicle for any other semi-trailor.]

(3) The provisions of sub-section (1) shall not apply—

Xxx xxx xxxx xxxx xxxx xxxx xxx xxx xxx
Xxx xxx xxx xxx xxx xxx xxx xxx xxx

(k) to any transport vehicle which has been temporarily registered under Section 43 while proceeding empty to any place for the purpose of registration of the vehicle;

(l) [* *]*

12. Learned Counsel for the petitioner has been confronted with the use of the expression “No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle.....”, as to what would be the significance of the use of the vehicle as a Transport vehicle and as to whether a mere presence of a transport vehicle on the way back can be construed as use of the vehicle as a transport vehicle. Counsel for the petitioner is not in a situation to refer

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to any law on the basis whereof it can be held that an empty vehicle being taken back to the place of owner pending registration formality can be treated as the same of it being used as a transport vehicle. The provision of Section 66 (3) (k) which is an exemption excludes the vehicle being taken empty for its registration. The said exception would necessarily include the vehicle being brought back empty to the residence/parking area by the owner pending registration. The clause cannot be read to mean that once a vehicle is taken for registration and for securing necessary permission and for physical inspection of the vehicle, it must be left at the same place till the permission/registration is done and cannot be driven back. Any such interpretation would be completely absurd and not appealing to reason or rationality. He also fairly concedes that no evidence has been led by the petitioner-Insurance Company to establish that any goods or belongings were being transport at the time of the accident.

13. In the absence of any evidence of the vehicle carrying any goods, there can be no presumption drawn to the use of vehicle as a Transport vehicle at the time of the accident or to assume that the vehicle was not empty at the time of accident or was not being driven back home for parking.

14. The Permanent Lok Adalat (Public Utility Services), Rupnagar has considered the entire evidence and has returned the

finding upon consideration of the rival submissions. There cannot be any presumption or any inference to be drawn against the Insurer, despite inability of the petitioner-Insurance Company to produce evidence to establish its own defence. The burden does not lie on the claimant and rather, the burden has to be discharged by the person disputing the liability. The discretion has been exercised by the respondent-Permanent Lok Adalat (Public Utility Services), Rupnagar on sound principles of law and guided by Section 22-D of the Legal Services Authorities Act, 1987 and it cannot be said that the said exercise of discretion in passing of the Award in favour of the respondent-applicant suffers from any illegality, perversity or gross impropriety or even misappreciation of the evidence adduced on record.

15. In view thereof, the present writ petition is dismissed in *limine*.

AUGUST 23, 2024

Vishal sharma

Whether speaking/reasoned

Whether reportable

: Yes/No

: Yes/No

(VINOD S. BHARDWAJ)

JUDGE