IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

204

CWP-15941-2016 (O&M)
Date of decision: 13.02.2024

HDFC Ergo General Insurance Company Ltd.

...Petitioner

VERSUS

Permanent Lok Adalat (Public Utility Services), Gurgaon and another

...Respondents

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

Present :- Mr. Vishal Aggarwal, Advocate for the petitioner.

Mr. Kanwar Abhay Singh, Advocate for respondent No.2.

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VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order dated 06.01.2016 passed by the Permanent Lok Adalat (Public Utility Services), Gurgaon (now Gurugram), whereby the petitioner has been directed to pay an amount of Rs.4,85,439/- to respondent No.2-applicant.

2. Learned counsel for the petitioner contends that respondent No.2-applicant had taken two separate insurance policies, commencing from 08.07.2013 to 07.07.2016 and 05.04.2013 to 04.04.2016 respectively, for different sums of money. Copies of the cover notes of the policies have also been attached with the present petition. He submits that respondent No.2-applicant fell from the bed, in the month of April-2015, whereupon he was admitted to the Medanta Hospital, Gurugram on 01.04.2015 and was

diagnosed with a case of blunt trauma abdomen. A claim was thereafter lodged by respondent No.2-applicant for compensation on account of medical expenses incurred by him under the critical illness cover. The discharge summary of respondent No.2-applicant discloses that the treatment was on account of injuries sustained by him after falling from the bed resulting in injuries over his head, right hand and blunt trauma abdomen. The same was thus not a case of critical illness at all since the diseases covered under critical illness were different and distinct as against the disease suffered by respondent No.2-applicant. The claim was accordingly repudiated by the petitioner-Insurance Company vide its communication dated 21.05.2015.

3. Aggrieved of the repudiation, an application under Section 22-C of the Legal Services Authorities Act, 1987 was preferred by respondent No.2-applicant before the Permanent Lok Adalat (Public Utility Services), Gurgaon.

4. Written statement was filed by the petitioner-Insurance Company pointing out that the claim was rightly repudiated and that the petitioner did not suffer from critical illness as defined in the insurance policy and that the injury was at best the case of an accidental hospitalization.

5. The efforts for amicable resolution of the dispute failed, whereupon an adjudication under section 22-C(8) of the Legal Services Authorities Act, 1987 was initiated by the Permanent Lok Adalat (Public Utility Services), Gurgaon.

6. Upon consideration of the evidence adduced before it, the

Permanent Lok Adalat (Public Utility Services) allowed the application and directed the petitioner-insurance company to indemnify the bill of Rs.4,85,439/- raised by respondent No.2-applicant. The operative part of the said award reads thus:-

> ***"xxxx***
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> ***The accidental hospitalization is also covered under this policy. The applicant suffered the injury in question on account of a sudden fall from the bad at night. So the injury suffered by him will be classified as accidental injury and it was for this accidental injury that the applicant was hospitalized. So the treatment of such injury is covered under accidental hospitalization and the respondent insurance company is liable to reimburse the applicant for the expenses of treatment irrespective of the fact that the injury is not covered under critical illness. The repudiation of the claim of applicant by the respondent insurance company is, therefore, not justified as the coverage under the head "accidental hospitalization" was not considered by the respondent company while processing his claim.***
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> ***7. The respondent insurance company is, therefore, directed to pay Rs. 4,85,439/-to the applicant towards expenses of his treatment within 40 days from today failing which the respondent company will be liable to pay interest on this amount @ 9% per annum from the date of application i.e.***

08.06.2014, till the date of actual payment. The application is disposed off accordingly. File be consigned to record room.".

7. Aggrieved thereof the present writ petition has been filed.

8. Learned counsel for the petitioner has argued that the award passed by the Permanent Lok Adalat is misconceived and is based on exercise of an authority and jurisdiction that was not conferred upon it and that it has travelled beyond the contour of the insurance policy issued in favour of respondent No.2-applicant. He contends that the Permanent Lok Adalat has specifically noticed that the injury for which respondent No.2-applicant was hospitalised i.e. blunt trauma abdomen, was not covered under the critical illness as detailed in Clause 1 of the policy, however, despite the same, the petitioner was directed to pay the entire hospitalization expenses clearly ignoring that the total insurance cover under the accidental hospitalization, under both the policies, was limited to Rs.2 lakhs. Hence, the direction to pay an additional amount of Rs. 2,85,439/- over and above the sum assured for an accidental hospitalization amounted to travelling beyond the contract of insurance and fastening a liability which the petitioner-insurance company was not obligated to discharge.

9. Controverting the submission, counsel for respondent No.2-applicant contends that he had obtained two mediclaim policies during the said period and while sum insured (overall liability) of different coverage was Rs.1 to Rs. 5 lakhs in Policy No.2950200538557100000, the sum assured in the second policy bearing No.2950200477807800000 was from Rs. 5 lakhs to Rs. 11 lakhs.

10. A specific query was raised to the learned counsel for respondent No.2-applicant as to whether the policy cover note appended by the petitioner with the petition are disputed, to which he is not in a position to controvert, dispute or deny.

11. Further, counsel for respondent No.2-applicant was called upon to refer to the policy as per which the insurance cover extended to Rs.5 lakhs for the first policy and upto Rs.11 lakhs in the second policy, he however contends that he is not in possession of the said document. The contention, however, is that respondent No.2-applicant made a specific averment to the said effect in the application submitted before the Permanent Lok Adalat and that the same was not denied by the counsel for petitioner-insurance company in its written statement filed by them before the said authority.

12. I have heard the learned counsel for the parties and have gone through the documents appended with the present petition.

13. Insofar as the objection of respondent No.2 that there is no denial that the insurance cover in the case at hand exceeded from Rs.1 lakh to Rs. 5 lakhs in the first policy and from Rs. 5 lakhs to Rs. 11 lakhs in the second policy is concerned, the same is misconceived. The insurance company, in its reply filed before the Permanent Lok Adalat had specifically admitted the issuance of the policies and insofar as the aspect of liability is concerned, the response was that the liability of the insurance company is subject to strict adherence to the terms & conditions of the policy. The said policy document having been filed, the reply has to be read in the light of the policy documents that were on record before the Permanent Lok Adalat.

14. The said policy note not being in dispute and as per the same,

the insurance cover for accidental hospitalization was to the extent of Rs.1 lakh each in both the policies. Thus, the total limit for reimbursement of the accidental hospitalization expenses was capped at Rs.2 lakh. Even though the total insurance cover may be upto a sum of Rs.5 lakhs in the first policy and for further amount in the second policy, however, the above insurance cover has been provided by the insurance company for different eventualities. Hence, ignoring the different eventualities and the sum assured under the specific head, it would not be appropriate on the part of the Permanent Lok Adalat to construe that the total sum insured would be the only relevant factor for awarding reimbursement. The classification and coverage having been assigned for different specific head, the total insurance cover for respective eventualities cannot exceed beyond the same. The balance insurance cover is to be indemnified only on the occurrence of the other eventualities for which the insurance cover has been issued.

15. It is also noticed that the Permanent Lok Adalat had itself recorded a finding that it was not a case of critical illness and it was at best a case of accidental hospitalization. The maximum cover having already been prescribed, under both the policies to a sum of Rs.2 lakhs, the Permanent Lok Adalat could not have travelled beyond the contractual obligation required to be discharged and fasten an additional liability on the petitioner-insurance company. The finding thus suffers from a mis-appreciation of the contractual documents executed between the parties.

16. The present writ petition is accordingly **partly allowed**. The award dated 06.01.2016 passed by the Permanent Lok Adalat (Public Utility Services), Gurgaon (now Gurugram) in **application No.848 of 2015** titled as

'**Mr. Mohinder Singh** Vs. **The HDFC Ergo General Insurance Company Ltd., Gurgaon**' is **modified** to the extent that the petitioner-insurance company is liable only to reimburse the amount of Rs. 2 lakhs i.e. maximum insurance cover extended under both the policies. The liability of the petitioner-insurance company for the differential amount of Rs.2,85,439/- as per the award is accordingly held to be bad.

17. The above amount of Rs.2 lakhs, is stated to have been already deposited by the petitioner-insurance company in terms of the award dated 06.01.2016 passed by the Permanent Lok Adalat (Public Utility Services), Gurugram. The same is directed to be released in favour of respondent No.2-applicant along with interest that may have accrued thereupon during the pendency of the present writ petition.

(VINOD S. BHARDWAJ)
JUDGE

13.02.2024
Mangal Singh

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