



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

238

CWP-18038-2022

Date of decision: 01.08.2024

KULDIP SINGH

.....Petitioner

VERSUS

PERMANENT LOK ADALAT AND OTHERS

.....Respondents

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

Present: - Mr. Ashish Gupta, Advocate and
Mr. Varun Gupta, Advocate
for the petitioner.

Mr. R.C.Gupta, Advocate
for respondent No.2-New India Assurance.

Mr. Vipul Dharmani, Advocate for respondent No.3.
(Through Video Conferencing).

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the impugned Award dated 24.02.2022 (Annexure P-3) passed by Permanent Lok Adalat (Public Utility Services), Moga, District Moga whereby the claim of the petitioner has been declined.

2. The brief facts of the case are that the vehicle bearing Registration No. PB-05AB-6459 owned by the petitioner and financed by respondent No.3-Daimler Financial Services Pvt. Ltd. was insured with the respondent No.2-New India Insurance Company for the period from

**CWP-18038-2022****-2-**

11.04.2017 to 10.04.2018. On 10.03.2018, the vehicle had been taken to Abohar, District Fazilka, Punjab for unloading of goods. The Driver of the petitioner apprise that there was certain defect in the hydraulic system of the vehicle whereupon the petitioner contacted the toll free number of Bharat Benz Company on its toll free No. 180030012345 from his Mobile No. 7009166020 for repair of the vehicle. The petitioner was directed to call after some time. The said call was made yet again whereupon the Operator gave a mobile number of the nearest authorized service and repair Centre of M/s Marwar Trucking Agency, Sri Ganga Nagar and the contact Mobile No. 7023003109. The petitioner were asked to contact the said agency for the necessary repairs. When the petitioner contacted the agency, he was informed that the proper spare parts were not available with them and that their workshop was situated at Sri Ganga Nagar Road, Bikaner and the petitioner was apprised to take the vehicle in the said workshop. The petitioner arranged for the requisite funds on 13.03.2018 and directed to his Driver to take the vehicle to Bikaner, however, on its way, the vehicle met with an accident in the area of Village Dhakhranwali, District Sri Ganga Nagar. The vehicle caught fire and was damaged beyond repair. The authorized Service and Repair Centre as well as the Insurance Company declared it to be a total loss. An Insurance claim was filed by the petitioner with the Insurance Company which in turn appointed a Surveyor. The vehicle, as per directions of the Insurance Company was parked in the premises of Ms/s Global Trucking, Village Lehra Mohabbat, District Bathinda and is still there. Certain documents were demanded by the

**CWP-18038-2022**

-3-

Insurance Company vide letter dated 07.06.2018 received by the petitioner on 13.06.2018. Reply to the same alongwith the documents as demanded was sent. On 22.08.2018, route permit of the vehicle for the State of Rajasthan was demanded from the petitioner which was also replied to. The respondents, however, repudiated the claim of the petitioner vide letter dated 05.11.2018. Consequently, the application under Section 22 (C) of the Legal Services Authorities Act, 1987 was filed before the Permanent Lok Adalat (Public Utility Services). Without going into the said aspects any further, the application preferred by the petitioner was dismissed by the Permanent Lok Adalat (Public Utility Services) on the ground that the petitioner was not having valid route permit to ply the vehicle in the State of Rajasthan and as such, there was a breach of terms and condition of the policy. Counsel for the respondent-Insurance Company hence placed reliance on the judgment in the matter of ***“Gohar Mohammed versus Uttar Pradesh State Road Transport Corporation and others”*** reported as 2023 (4) SCC 381 to contend that where the vehicle is being plied without a valid route permit, the same would be construed as a breach of terms and conditions of the policy and the claim can be repudiated on the said score.

3. Learned Counsel appearing on behalf of the petitioner, however, contends that Permanent Lok Adalat (Public Utility Services), Moga has failed to appreciate the documents that have already been on their own record. He contends that mandate of Section 66 of the Motor Vehicles Act, 1988, Sub Section -3 thereof provides exemptions from the necessity for having a route permit. When a Transport vehicle is being taken empty, to

**CWP-18038-2022**

-4-

any place for the purpose of repair, the necessity of route permit is exempted and cannot be enforced. He contends that the Surveyor of the respondent had placed on record the report Ex.R-5 wherein it was specifically reported that at the time when the vehicle met with an accident, it was empty.

4. Reliance was also placed on the load challan/other documents by the Surveyor to record a finding of the vehicle being empty. Coupled with the same, the petitioner has specifically shared the details of the toll free number on which he had contacted and also having made a call to the employees of the authorized service center. The Permanent Lok Adalat (Public Utility Services), Moga, discriminated the said evidence only on the basis that the employees of the authorized Service Repair Center or the employees posted in the Call Center of the Bharat Benz Company have not been adduced in evidence. It is stated that the call details has not been authenticated by any of the official of the service provider and as such, the said aspect cannot be considered at all.

5. Having heard learned Counsel appearing on behalf of the respective parties and taking into consideration the provision of Section 66 (3) (p) of the Motor Vehicle Act, 1988 whereas the Surveyor has specifically recorded in his report that the vehicle was empty at the time of the accident and that the documents also suggested the same. The petitioner has given detail description of the chain of events and also the specific action was being directed by this Service and Repair Center to take the vehicle to the nearest possible workshop at Bikaner where all the spare parts were available.



6. Undisputedly, the Service and Repair Center was not a party before the Permanent Lok Adalat (Public Utility Services), Moga, it thus seems that the petitioner did not anticipate the details to the extent to which the Permanent Lok Adalat (Public Utility Services) would relate back the evidence and would cast a burden upon him to establish a said aspect. Apparently such a lapse is more in the nature of an erroneous expectation and belief about the mode of proof and the documents required to establish the existence of probabilities in his favour.

7. I find that there is some semblance of evidence that was adduced by the petitioner which would show that the vehicle was not being plied for ferrying goods/passengers in violation of Section 66 and was apparently being taken empty for the purposes of repair although there is some deficiency on his part in establishing the link evidence of the vehicle being taken to the Ganga Nagar for the said repairs. In my opinion, such a lapse should not be extended to an extent where the right of a person to claim benefit should be scuttled in its entirety and an opportunity and chance must be afforded to a petitioner to establish his case especially when the policy in question had been obtained to mitigate such hardship and noticing that it was a case of total loss to the vehicle. The present writ petition is allowed. The Award dated 24.02.2022 passed by the Permanent Lok Adalat (Public Utility Services), Moga (Annexure P-3) is set aside. The matter is remanded to the Permanent Lok Adalat (Public Utility Services), Moga to pass a fresh Award in accordance with law and after granting an opportunity of hearing to the respective parties to establish their case. The parties shall



CWP-18038-2022

-6-

appear before the Permanent Lok Adalat (Public Utility Services), Moga on 02.09.2024 whereupon further proceeding shall be carried out.

(VINOD S. BHARDWAJ)
JUDGE

AUGUST 01, 2024
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No