IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

208

CWP-23985-2016 (O&M)
Date of decision: 26.09.2024

United India Insurance Company Limited

...Petitioner

VERSUS

The Permanent Lok Adalat, Public Utility Services (PUS), Sangrur and Ors.

...Respondents

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

Present :- Mr. V. Ramswaroop, Advocate for the petitioner.

Mr. Rajbir Singh, Advocate for respondents No.2 to 4.

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VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order dated 17.09.2016 passed by Permanent Lok Adalat (Public Utility Services) Sangrur in application No.268 dated 08.05.2015 titled as 'Ruldu Ram @ Ruldu Singh and others Vs. United India Insurance Company Limited' and for dismissing the complaint moved by respondent No.2-Ruldu Ram @ Ruldu Singh for seeking release of the claim amount of Rs.1,00,000/- alongwith interest @18% per annum from the date of death of Darshna Devi.

2. Briefly summarized, the facts of the present case are that Darshna Devi wife of respondent No.2-Ruldu Ram @ Ruldu Singh was insured under the Janta Personal Accident Policy for a sum of Rs.1,00,000/- for a period from 29.06.2009 to 28.06.2014 from the petitioner-Insurance Company, subject to terms and conditions of the Policy. On 06.10.2009, when Darshna Devi (since deceased) had gone to meet their relative in

village Ghorenab along with her son-Gagandeep Singh and brother-in-law Tarsem Chand, she was hit by a stray cattle at about 3.00 p.m. on her way to the house of their relative, from the bus stand. She was immediately taken to the Civil Hospital, Moonak where she succumbed to the injuries sustained by her. She was cremated on the same day, without getting the postmortem conducted. A DDR No.07 dated 21.12.2009 was also lodged at Police Station Lehra, on the statement of Gagandeep Singh-respondent No.3. The claim was later submitted in the month of January 2011. Respondent No.2-applicant claimed that despite repeated visits to the petitioner-Insurance Company, no steps were taken, hence, a complaint was filed before the District Consumer Disputes Redressal Forum, Sangrur. The said complaint was eventually allowed vide order dated 24.07.2012.

3. Aggrieved thereof, the petitioner-Insurance Company thereafter preferred an appeal before the State Consumer Disputes Redressal Commission, Punjab, which was allowed and the order passed by the District Consumer Disputes Redressal Forum, Sangrur vide order dated 23.12.2014 was set aside. A direction was also issued to the petitioner-Insurance Company to decide the claim of respondent No.2 within a period of 30 days of receipt of certified copy of this order. The operative part of the order dated 23.12.2014 reads thus:-

> ***"12. Accordingly, we allow this appeal. The order passed by the District Forum is set aside and a direction is issued to the opposite party to decide the claim of the complainant within 30 days of the receipt of the***

certified copy of this order. In case, the complainant will feel dissatisfied with the disallowing of his claim by the opposite party, he shall have a right to challenge the same by filing a fresh complaint.

13. The sum of Rs.25,000/- deposited at the time of filing of the appeal alongwith interest which has accrued thereon, if any, shall be remitted by the registry to the appellant/opposite party by way of a crossed cheque/demand draft after the expiry of 45 days of the sending of certified copy of the order to them."

4. In compliance of the said order, a decision was taken by the petitioner-Insurance Company on 22.01.2015 declining the claim of respondent No.2. It was thereafter that the present application No.268 dated 08.05.2015 was filed by respondent No.2-applicant before the Permanent Lok Adalat (Public Utility Services), Sangrur under Section 22-C of Legal Services Authorities Act, 1987.

5. Notice of the application was issued to the petitioner-Insurance Co. whereupon they filed their response denying the claim filed by respondent No.2-applicant. It was submitted by the petitioner-Insurance Company that the death of Darshna Devi-insured did not take place in the manner as suggested and that the DDR was falsely lodged to stake a claim and also that there was an inordinate delay in submission of the claim and in approaching the District Consumer Disputes Redressal Forum at the first instance and as such respondent No.2-applicant was not entitled to the

benefits under the policy. A further plea had been taken that the intimation pertaining to the accidental death was required to be furnished within a period of one month but the needful was not done.

6. As the efforts made for amicable settlement of the dispute between the parties failed to yield any result, the Permanent Lok Adalat (Public Utility Services) proceeded with the matter for a final adjudication under Section 22C (8) of Legal Services Authorities Act, 1987.

7. On consideration of the evidence led and the arguments advanced by the parties, the application was allowed and the petitioner-Insurance Company was held liable to pay the sum insured to the tune of Rs.1,00,000/- along with a sum of Rs.10,000/- towards mental agony and harassment and litigation expenses to the tune of Rs.10,000/-. The operative part of the said order reads thus:-

> ***"6. We have heard the parties and have perused the record.***
>
> ***7. Smt. Darshna Devi was not medico legally examined after she received the injuries. No post mortem was conducted on her dead body. Case of the applicant is that on 06.10.2009 Darshna Devi was hit by a stray cattle and she received grievous injuries on her head and other parts of the body and that she died on way to the hospital. DDR No.07 of 21.12.2009 was lodged by Gagandeep Singh in that regard. Claim could not be lodged with the respondent as policy document was***

misplaced. It was found in the last week of December and a claim was lodged vide notice dt.12.01.2011. Case of the respondent is that Darshna Devi did not receive injuries as alleged. A false story has been put forward to claim the insurance amount.

8. It is not disputed by the parties that a complaint was filed by the applicant before the District Consumer Redressal Forum which allowed. An appeal was filed by the respondent before the State Consumer Disputes Redressal Commission which was allowed and it was ordered that the claim be disposed of within 30 days. In case the complainant feels dissatisfied, he can file a fresh complaint. The claim was repudiated by the respondent vide Ex.R-3. It was stated therein that as per policy condition no.01 "Upon the happening of any event which may give rise to claim under this policy, the insured shall forthwith give notice thereof to the company unless reasonable cause is shown the insured should, within one calendar month after the event which may give rise to a claim under the policy, give written notice to the company with full particulars of the claim"

<u>Points for determination</u>:-

1. Whether terms and conditions of the policy were supplied by the respondent to the deceased/her husband?

2. Whether the applicants are entitled to receive policy amount?

9. Case of the applicants is that the terms and conditions of the policy were not supplied to applicant no. 1 or the deceased. The respondent has also failed to prove the same because no postal receipt has been placed on the file in that regard. Accordingly, this issue is decided in favour of the applicants.

10. Ruldu Ram (husband of the deceased) deposed as per case of the applicants as set out in the application. He is supported by Gagandeep Singh son of the deceased as well as by one Tarsem Chand who have submitted their affidavits Ex.A- 12 and Ex.A-13. Even Smt. Jaswinder Kaur Sarpanch of Gram Panchayat village Dudian where the deceased was residing in affidavit Ex.A-14 has stated that Darshana Devi died in an accident as a stray cattle hit her as a result of which she suffered multiple grievous injuries on her head and other parts of the body and no post mortem was conducted upon her dead body and that she issued certificate dated 10.3.11 which is correct. Ex.A-4 is the copy of that

certificate. It would show that Darshana Devi died as she was hit by a buffalo and was cremated in the village. Ex.A-2 is the copy of death certificate of Darshana Devi. From these documents it stands established that Darshana Devi died as she was hit by a stray cattle on account of multiple grievous injuries having been received by her.

11. ***Intimation to the respondent was given by the applicants vide legal notice dt. 12.1.2011 copy of which is Ex.A-5. Thus, it can be said that Darshana Devi died on 6.10.2009 and DDR was lodged in that regard on 21.12.2009 by her son, i.e. after about two and a half months. Intimation of her death was given to the respondent vide legal notice dt. 12.1.2011 i.e. after about 15 months. Claim of the applicants has been repudiated as the respondent was informed after such a long delay about the death of the insured. Now it is to be seen as to whether the respondent is justified in rejecting the claim or not. In that regard, the respondent has relied upon Sunita Versus Reliance General Ins. Co. Ltd. & Ors. IV (2014) CPJ 555 (NC), P. Prabhavathi Versus National Insurance Co. Ltd. II (2004) CPJ 177 Andhra Pradesh State Consumer Disputes Redressal Commission, Hyderabad, LIC of***

India versus Hundi Bai II (2004) CPJ 344 Rajasthan State Consumer Disputes Redressal Commission, Jaipur, Shakuntala Solani versus Oriental Insurance Co. and Ors. 2006 (1) CPJ (N.C) 135, United India Insurance Co. Ltd., and Anr. Versus Prabhavathi and Ors. 2010 (3) C.P.J 156 Kerala State Consumer Disputed Redressal Commission, Thiruvananthapuram.

12. In all these cases it was held that if the insurance company is informed after a long delay regarding the death of insured it is clear violation of terms and conditions of the policy.

13. On the other hand the applicant has relied upon Reliance General Insurance Co. Ltd. Versus Sri Avvn Ganesh, 2012 (2) CLT 664 (NC), National Insurance Co. Ltd. Versus B. Vemkataswamy II (2014) CPJ 65 (NC), and United India Insurance Company Ltd. Versus Pallamreddy Aruna IV (2007) CPJ 389 (NC).

14. In Shri Avvn Ganesh's case (supra), claim was lodged after about four months with insurance company regarding death of the insured. It was held that death of the insured due to injuries suffered on account of accident was clearly established on the basis of medical record as well as deposition of the doctor who attended the insured and that the claimants were entitled to

receive the amount of insurance. In B. Venkataswamy's case (supra), it was held that insurer must not repudiate the claim unless and until reasons of delay are specifically ascertained, recorded and that the insured have satisfied themselves that delayed claim would have otherwise been rejected even if reported in time. They were advised to incorporate additional wordings in the policy documents, suitable enunciating insurers' stand to condone delay on merit, for delayed claims, where the delay is proved to be, for reason beyond control of insured. In Pallamreaddy Aruna's case (supra), death was due to snake bite. It was proved by the certificate of the police officer, village Administrative Officer and doctor. Contention without conducting post mortem, doctor cannot say that person died because of snake bite, not acceptable as doctor on considering symptoms/cause of snake bite easily certify that person died because of poison. Villagers in small village would not wait for post mortem in snake bite case. Claim was allowed.

15. ***In the case in hand, the applicants have stated that policy documents was misplaced and that when it was found, they immediately lodged the claim. This contention cannot because the applicants were be***

rejected Interested in lodging the claim at the earliest and were not to get any benefit to delay the same. The Sarpanch of the village has issued certificate, copy of which is Ex.A-4 as well as submitted her affidavit Ex.A-14 vide which she has clearly stated that Darshna Devi died due to injuries received by her as she was hit by a stray cattle. The applicants have explained the delay in lodging the claim as the policy document was misplaced by them. When it was found they immediately lodged the claim. Even DDR was lodged on 21.12.2009 and the claim was lodged vide legal notice dt. 12.1.2011 i.e. after a long time. It shows that DDR was not premeditated. Even the State Commission had found that the complainant had succeeded to explain the delay.

16. The contention of ld. Counsel for the respondent that the applicants were required to file fresh complaint before the Consumer Disputes Redressal Forum District as were directed by the State Commission and could not approach this Court, cannot be sustained as this Court has also got the jurisdiction to entertain and decide this case. Old litigation between the parties came to an end when the appeal filed by the present respondent was accepted by the State Commission and

it was ordered to decide the claim of the complainant within 30 days and the complainant was given the right to file fresh complaint.

17. Accordingly it must be held that the applicants are entitled to receive the policy amount i.e. Rs.1,00,000/-. They are also entitled to receive Rs.10,000/- on account of mental agony and harassment, Rs.10,000/- on account of litigation expenses and interest @ 9% per annum from the date of repudiation of the claim till the same is paid. The applicants would get the amount in equal shares. File be consigned."

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

10. During the course of preliminary hearing on 22.11.2016, the contentions of the learned counsel for the petitioner-Insurance Company was noticed as under:-

"Learned counsel for the petitioners, inter-alia, contends that respondent No.2 had earlier filed an application before the District Consumer Dispute Redressal Forum, Sangrur, under the Consumer Protection Act, 1986, which was allowed. However, appeal against that order was allowed and the order of the Consumer Forum was set aside. The respondent then filed an application under Section 22-C of the Legal Services Authorities Act, 1987 ('the Act') which has now been allowed. It is submitted that once the respondent elected

a Forum for the redressal of his grievance, then he cannot be allowed to elect another Forum for the same purpose.

Notice of motion for 07.03.2017.

In the meantime, operation of the impugned order shall remain stayed."

11. The award was ordered to remain stayed.

12. Learned counsel for the petitioner-Insurance Company has reiterated his arguments and contends that respondent No.2 had initially approached the Consumer Fora for redressal of his grievance and that as the cognizance of the said dispute had already been taken by the Consumer Fora, hence, respondent No.2 cannot approach the Permanent Lok Adalat (Public Utility Services). The proceedings was thus not maintainable.

13. Responding to the above, learned counsel for respondent No.2 on the other hand contends that the submission lacks merits since respondent No.2 had approached the Consumer Fora against the earlier proceedings whereby the complaint was allowed by the District Consumer Disputes Redressal Forum, Sangrur and the subsequent appeal preferred by the petitioner-Insurance Company was allowed. The award of the District Consumer Disputes Redressal Forum, Sangrur was set aside and the petitioner-Insurance Company was directed to take a fresh decision. In compliance thereto, a decision was taken by the petitioner-Insurance Company on 22.01.2015. The said decision gave rise to a fresh cause of action for which respondent No.2-applicant approached the Permanent Lok Adalat (Public Utility Services). Hence, so far as the initial act of respondent

No.2 in approaching the Consumer Fora is concerned, the same was against the earlier grievance and thereafter, passing of the order in compliance to the order passed by the State Consumer Disputes Redressal Commission, the petitioner had not approached to any other Forum but Permanent Lok Adalat (Public Utility Services). It is thus submitted that the bar contained under Section 22C of the Legal Services Authorities Act, 1987 would not be applicable under the given circumstances and the Permanent Lok Adalat (Public Utility Services) shall have the jurisdiction.

14. No other argument has been raised by the any of the learned counsel for the respective parties.

15. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents available on record.

16. It is evident from a perusal of the undisputed facts that respondent No.2-applicant had initially approached the Consumer Fora against the inaction on the part of the petitioner-Insurance Company in taking decision on his entitlement to the benefit under the Insurance Policy. The State Consumer Disputes Redressal Commission, Punjab had directed the petitioner to take a decision on the claim of respondent No.2-applicant, pursuant thereto a decision was taken on 22.01.2015. Aggrieved of the aforesaid decision, respondent No.2-applicant had preferred an application 22C of the Legal Services Authorities Act, 1987 before the Permanent Lok Adalat (Public Utility Services), Sangrur. It is thus evident that the cause of action that was brought before the Permanent Lok Adalat (Public Utility Services), infact emanated from the communication of the order dated

22.01.2015. All the prior proceedings would not survive any further and would have no bearing as the order has already been passed. At this juncture, it would also be relevant to refer to Section 22C of the Legal Services Authorities Act, 1987. The relevant part thereof is extracted as under:-

> ***"22C. Cognizance of cases by Permanent Lok Adalat.—***
>
> ***(1) Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute:***
>
> ***Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:***
>
> ***Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees:***
>
> ***Provided also that the Central Government, may, by notification, increase the limit of ten lakh rupees specified in the second proviso in consultation with the Central Authority."***

17. It is evident from a perusal of the Section 22C(1) of the Legal Services Authorities Act, 1987 that the jurisdiction of Permanent Lok Adalat (Public Utility Services) is restrained when a dispute is taken up before any other Court before submission of an application before Permanent Lok Adalat (Public Utility Services) for settlement of the dispute. Hence, the prohibition is imposed against taking cognizance of the dispute. In the

present case, the initial proceedings initiated by respondent No.2-applicant were in relation to an act/omission on the part of the petitioner-Insurance Company but the subsequent proceedings have taken place pursuant to the denial of the claim by the petitioner-Insurance Company. The said order became a subject matter of dispute for the first time only in the said application preferred by the petitioner before the Permanent Lok Adalat (Public Utility Services). It cannot thus be said that despite the earlier proceedings instituted by respondent No.2-applicant before the Consumer Fora culminating in passing of a final order directing the petitioner-Insurance Company to take a decision would nonetheless be reckoned as alive for determining the accrual of the dispute, which primarily owes to the subsequent order passed on 22.01.2015.

18. I find that such a wide definition of '<u>a dispute</u>' cannot be accepted to bring within its ambit even the earlier proceedings that attained finality and a fresh cause accrued. Once the cause for approaching a Court, at a later point in time arises out of a fresh order, which is not a subject matter of challenge before any other Court, then the jurisdiction of Permanent Lok Adalat (Public Utility Services) would not be ousted under the provisions of the Legal Services Authorities Act, 1987.

19. The institution of the present application is based on a fresh cause of action giving rise to a fresh dispute where the reasoning and the merits of the fresh decision taken by the petitioner-Insurance Company were under consideration and is not a continuation of any earlier dispute, being a fresh dispute, the matter could be considered.

20. The present writ petition is accordingly dismissed and the award dated 17.09.2016 passed by the Permanent Lok Adalat (Public Utility Services) Sangrur in application No.268 dated 08.05.2015 titled as 'Ruldu Ram @ Ruldu Singh and others Vs. United India Insurance Company Limited' is affirmed.

(VINOD S. BHARDWAJ)
JUDGE

26.09.2024
Mangal Singh

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