

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

101

CWP-940-2012 (O&M).
Date of Decision: 23.04.2024.

ORIENTAL INSURANCE COMPANY LIMITED

.. Petitioner

Versus

KHURSHID AND ANOTHER

... Respondents

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

Present: Mr. Dishant Jindal, Advocate, for
Mr. Ashwani Talwar, Advocate,
for the petitioner.

Mr. Munfaid Khan, Advocate,
for respondent No.1.

VINOD S. BHARDWAJ, J. (ORAL)

CM-633-CWP-2024

The present application has been filed under Section 151 of the Code of Civil Procedure, 1908, for fixing actual date of hearing in the main writ petition which was admitted vide order dated 04.09.2012.

Notice in the application to the counsel for the non-applicant/respondent No.1.

Accordingly, for the reasons stated in the present application, the same is allowed. The main writ petition is taken on board for hearing today itself.

Main case

The instant writ petition has been filed for quashing of order dated 18.10.2011 (Annexure P-1) passed by the Permanent Lok Adalat (Public Utility Services), Gurgaon, whereby the petitioner-Insurance Company has been directed to pay a sum of Rs.4,18,796/- to the claimant-respondent No.1.

Briefly summarized, the facts of the present case are that the respondent No.1-applicant is the registered owner of Multi Axle (Trailer) bearing Registration No.HR-55M-9870 which was purchased on 08.04.2011 from Pascos G.T. Karnal Road, Kundli, District Sonapat. The said vehicle was insured with the respondent vide policy No.271601/31/2012/184, vide cover Note No.270000157081 valid from 08.04.2011 to 07.04.2012 with an insured declared value (IDV) of Rs.22,50,000/-. It was averred that the Gear Box of the above vehicle was troubling to the respondent No.1-applicant while driving. It is further averred that on 03.05.2011, the respondent No.1-applicant started his journey from Salahadi and proceeded to Sohna on the above mentioned vehicle but on way the above mentioned vehicle met with an accident and climbed on the foot path due to the defect of Gear Box which was not properly functioning resulting in damaging of the vehicle. The information was sent to the Insurance Company and Surveyor of the company visited the spot and advised the respondent No.1-applicant to get repaired the above mentioned vehicle from V.K. Motors Bye Pass, Delhi Alwar Road, Bye Pass Sohna, District Gurgaon and that the insurance company shall defray/reimburse cost of said repair. The vehicle was thus brought to the

Workshop on the same day. The repair charges were assessed by V.K. Motors as Rs.2,57,450/-. The expenses incurred by the respondent No.1-applicant were thereafter sought for from the petitioner-Insurance Company, however, when the same was not released, an application under Section 22-C of the Legal Services Authorities Act, 1987 was preferred by the respondent No.1-applicant.

The petitioner-Insurance Company filed its reply disputing the claim and averring that the respondent No.1-applicant did not have a valid permit on the date of the alleged accident and that the said the permit was effective from 06.05.2011 to 01.05.2012, hence, the vehicle was being plied in violation of Section 66, Sub-Section (1) of the Indian Motor Vehicles Act and as such the respondent No.1-applicant was not entitled to any claim.

The Permanent Lok Adalat (Public Utility Services), Gurgaon, however, allowed the application vide award dated 18.10.2011 and directed the petitioner-Insurance Company to pay a sum of Rs.4,18,796/- to the applicant-respondent No.1.

Aggrieved thereof, the present writ petition was filed.

At the stage of issuance of notice of motion, an argument was advanced by the petitioner-Insurance Company that mandatory procedure as prescribed under Section 22-C (4) to (8) of the Legal Services Authorities Act, 1987 was not followed and the execution of the award was thereafter stayed vide order date 01.02.2012.

Learned counsel for the petitioner-Insurance Company argues that the conciliation proceedings stipulated under Section 22-C (4) to (7) are

mandatory as per the judgment of the Hon’ble Supreme Court in the matter of **Canara Bank Vs. G. Jayaram, reported as (2022) 7 SCC 776** and that in the present case, the said procedure had not been followed and till such time the conciliation proceedings failed to fructify in a resolution of the dispute, the adjudicatory powers under Section 22-C (8) the Legal Services Authorities Act, 1987 could not have been invoked.

Learned counsel for the respondent No.1-applicant does not dispute the said position in law.

Accordingly, without commenting anything on the merits of the case, the present writ petition is allowed. The order dated 18.10.2011 (Annexure P-1) passed by the Permanent Lok Adalat (Public Utility Services), Gurgaon, is set aside. The matter is remanded back to the Permanent Lok Adalat (Public Utility Services), Gurgaon for passing the order afresh after following the procedure prescribed under the Legal Services Authorities Act, 1987.

The parties are directed to appear before the Permanent Lok Adalat (Public Utility Services), Gurgaon on 20.05.2024.

Needless to mention that the dispute being old, the Permanent Lok Adalat (Public Utility Services), Gurgaon shall expeditiously decide the said application and preferably within a period of six months from the date of appearance of the parties before it.

April 23, 2024.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No

RAJ KUMAR ARORA
2024.05.01 10:15
I attest to the accuracy and
integrity of this document