

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

220

**CWP-31256-2019 (O&M).
Date of Decision: 16.04.2024.**

NATIONAL INSURANCE COMPANY LIMITED AND ANOTHER

... Petitioners

Versus

**THE PERMANENT LOK ADALAT (PUBLIC UTILITY SERVICES),
RUPNAGAR AND OTHERS**

... Respondents

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

Present: Dr. Deepak Jindal, Advocate, for the petitioners.

Mr. Vijay Lath, Advocate, and
Mr. Ajay S. Dhiman, Advocate, for respondent No.2.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present writ petition is to the award dated 08.07.2019 passed by the Permanent Lok Adalat (Public Utility Services), Rupnagar.

Learned counsel appearing for the respondent No.2-applicant submits that respondent No.2-applicant was owner of a Tipper bearing registration No.PB-12-N-2985 which was insured with the petitioner-Insurance Company. At the time of insurance, its value was assessed at Rs.15 Lakhs by the petitioner-Insurance Company. During the pendency of the insurance policy, the Tipper was parked duly locked by its driver on the Rupnagar- Nangal National Highway on 24.12.2015. When the driver went

for the Tipper in the morning of 25.12.2015, he discovered that the tipper was missing. He searched for the same but failed to trace the same. The matter was reported to the respondent No.2-applicant who also carried out search for the Tipper at his own level but failed to trace the same. He thus suspected the vehicle having been stolen and reported the matter regarding the theft to the police on 26.12.2015. FIR No.133 dated 26.12.2015 under Section 379 of the Indian Penal Code, 1860, was registered in this regard. Intimation regarding theft of the Tipper was sent to the petitioner-Insurance Company on 11.03.2016, however, the claim was repudiated by the petitioner-Insurance Company on account of inordinate delay in informing the petitioner-Insurance Company of the theft of the vehicle. Aggrieved of the said repudiation, an application under Section 22-C of the Legal Services Authorities Act, 1987 was moved by the respondent No.2-applicant before the Permanent Lok Adalat (Public Utility Services), Rupnagar.

On notice, the petitioner-Insurance Company entered appearance before the Permanent Lok Adalat (Public Utility Services), Rupnagar and filed its response justifying the repudiation on account of inordinate and unexplained delay of 3½ months in intimating the petitioner-Insurance Company about the theft of Tipper.

Efforts for an amicable resolution of the dispute were undertaken by the Permanent Lok Adalat (Public Utility Services), Rupnagar, however, the same failed to culminate in a settlement. Adjudication under Section 22 C (8) of the Legal Services Authorities Act,

1987 was hence initiated by the Permanent Lok Adalat (Public Utility Services), Bathinda.

Upon consideration of the rival submissions advanced and evidence brought on record by the learned counsel for the parties, the Permanent Lok Adalat (Public Utility Services), Rupnagar, allowed the application and directed the petitioner-Insurance Company to pay sum of Rs.15 Lakhs to the respondent No.2-applicant towards loss of Tipper on account of theft as per the assessment undertaken by the petitioner-Insurance Company itself. A further amount of Rs.20,000/- was directed to be paid as compensation for harassment and Rs.5,000/- towards litigation expenses. Aggrieved thereof, the present writ petition has been filed.

Learned counsel appearing for the petitioner-Insurance Company contends that the insured was under an obligation to immediately report the incident to the petitioner-Insurance Company so that effective steps for mitigating the loss could be initiated and the interest of the petitioner-Insurance Company could be safeguarded. Respondent No.2-applicant failed to take any appropriate steps for safeguarding the interest of the petitioner-Insurance Company and hence, the claim was rightly repudiated.

On the other hand, learned counsel for the respondent No.2-applicant relies on the judgment of the Hon'ble Supreme Court in the matter of **Gurshinder Singh Vs. Sriram General Insurance Company Limited, bearing Civil Appeal No.653 of 2020 decided on 24.01.2020**, in which the Hon'ble Supreme Court set aside the decision of the petitioner-Insurance

Company repudiating the claim of an insured where there was no delay in lodging of the FIR pertaining to the theft of the vehicle.

The similar position has been reiterated by the Hon'ble Supreme Court in the matter of **Jaina Construction Company Vs. The Oriental Insurance Company Limited and another, Civil Appeal No.1069 of 2022 decided on 11.02.2022.**

No other argument has been raised.

I have heard learned counsel appearing for the respective parties and have also gone through the documents appended along with the present petition with their able assistance.

It is not in dispute that the FIR was lodged by the respondent No.2-applicant expeditiously and without any undue delay. Further, it is not the case of the petitioner-Insurance Company that the investigating agency did not take appropriate steps for tracing the vehicle or that its conclusions attributed lapse/criminal negligence on the part of the respondent No.2-applicant. Hence, the ratio of the judgment in the matter of **Gurshinder Singh and Om Parkash (supra)** would be squarely applicable to the facts of the present case.

I thus find that the award passed by the Permanent Lok Adalat (Public Utility Services), Rupnagar, would not be in conflict with the settled legal position.

Taking into consideration the legal precedents referred to above and the discussion as well as reasoning given by the Permanent Lok Adalat (Public Utility Services), Rupnagar, I find that there is no illegality, -

impropriety, perversity or mis-appreciation of law or facts by the Permanent Lok Adalat (Public Utility Services), Rupnagar.

The present writ petition is accordingly dismissed. Award dated 08.07.2019 passed by the Permanent Lok Adalat (Public Utility Services), Rupnagar, is upheld.

April 16, 2024
raj arora

(VINOD S. BHARDWAJ
JUDGE

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No