

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-132-2024

Date of decision: 08.01.2024

HDFC ERGO GENERAL INSURANCE COMPANY LTD.Petitioner

VERSUS

NITISH SHARMA AND ANOTHERRespondents

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

Present: - Mr. Nitin Thatai, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order dated 05.07.2023 (Annexure P-1) passed by respondent No.2-Permanent Lok Adalat (Public Utility Services), Gurugram in case No. 1028/2018 titled as *“Nitish Sharma versus HDFC ERGO General Insurance Co. Ltd.”*
2. Learned counsel appearing on behalf of the petitioner-Insurance Company contends that the respondent-applicant was the owner of Tractor bearing registration No. HR-26DD-1043 and that he had lodged a claim for compensation on account of theft of the aforesaid tractor on the intervening night of 23.04.2017 and 24.04.2017 from the area of village Garhi Harsaru, Tehsil and District Gurugram. The theft in question was reported to the

police on 24.04.2017 and an FIR No. 0357 had been registered at the Police Station Sector -10-A, Gurugram under Section 379 IPC on the said date itself. It is averred that the claim preferred by the respondent-applicant could not have been allowed since the said Tractor was having a temporary Registration Certificate at the time of the theft. The vehicle in question was purchased on 27.02.2017 and as on the date of theft i.e. intervening night of 23.04.2017 and 24.04.2017, the same was being plied without a valid Registration Certificate. The temporary registration is valid only for a period of one month from the date of delivery/purchase of the vehicle. The respondent-applicant was plying the tractor in violation of Section 39 and 192 of the Motors Vehicle Act, 1988 as well as in violation of the GR34 of the Indian Motor Traffic.

3. Upon failure of the conciliation proceedings, adjudication was undertaken by the respondent No.2- Permanent Lok Adalat (Public Utility Services), Gurugram. The Permanent Lok Adalat (Public Utility Services), Gurugram notice that the Registration Certificate was issued in favour of respondent-applicant from 01.05.2017 to 26.02.2032 i.e. for a period of 15 years. Apparently, the said period of registration relates to the period from the date of purchase i.e. from 27.02.2017. It is also recorded by the Permanent Lok Adalat (Public Utility Services), Gurugram that the respondent-applicant had applied to the competent authority for registration of vehicle and handed over the documents to authorized dealer as per the Certificate Annexure P-4 dated 27.02.2017 for applying of registration. The same having been corrected and the documents having been submitted to the competent authority for registration, the lapse could not thus be attributed to the respondent-applicant. The claim was accordingly allowed.

4. Learned counsel appearing on behalf of the petitioner fairly contends that the vehicle in question was parked in front of the house of respondent-applicant and that the said issue has already been considered by this Court in its judgment **dated 14.09.2023** passed in **CWP-1995-2016** titled as “***National Insurance Company Limited versus Ambala Belting House and another***” wherein this Court has held that once the vehicle in question was not being plied/used in violation of temporary registration and was parked in front of the house, the incident of theft of the vehicle would not attract the provision of Section 39 and 192 of the Motor Vehicle Act.

5. In view of the aforesaid and the issue having already been decided by this Court, the present petition is dismissed. The Award dated 05.07.2023 (Annexure P-1) passed by Permanent Lok Adalat (Public Utility Services), Gurugram is affirmed.

(VINOD S. BHARDWAJ)
JUDGE

JANUARY 08, 2024

Vishal Sharma

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