
(2014) 07 P&H CK 0018

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 20796 of 2012

Iffco Tokio General Insurance Company Limited

APPELLANT

Vs

Ved Pal and Others

RESPONDENT

Date of Decision : 07-07-2014

Acts Referred:

Legal Services Authorities Act, 1987 — Section 22(C), 22(C)(1), 22(D), 22-C, 22-D
Penal Code, 1860 (IPC) — Section 380

Citation : (2014) 176 PLR 595

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : Rohini Bedi, Advocates for the Appellant; Sachin Gupta, Advocates for the Respondent

Judgement

Ritu Bahri, J.—Challenge in this petition is to the order/Award dated 29.06.2012 (Annexure P-1) passed by the Permanent Lok Adalat (Public Utility Services), Ambala-respondent No. 2, whereby petitioner-company has been directed to pay Rs. 3,65,000/- as compensation at the rate of 9% per annum from the date of institution of the petition till payment, to the applicant-respondent No. 1. Ved Pal-respondent No. 1 made an application under Section 22-C of the Legal Services Authority Act, 1987, before the Permanent Lok Adalat, Gurgaon, stating that he is registered owner of a tractor Mahindra 295 DI Turbo, bearing registration No. HR-07-M-9639. The said vehicle was insured with Iffco Tokio General Insurance Company Ltd.-petitioner through its agent No. 19000364 at Kurukshetra. Respondent No. 1 paid a sum of Rs. 6058/- on 20.01.2010 and a cover note No. 40692500 was issued to him by the aforesaid agent of the petitioner-company. The aforesaid tractor was stolen from the Bathak at village Sanwla, District Kurukshetra. In this regard, FIR No. 47 dated 03.02.2010, under Section 380 IPC was got lodged at Police Station Sadar, Thanesar. The information regarding theft of vehicle was given to the petitioner-company as well as its agent and all the relevant documents were also submitted. Order regarding acceptance of untraced report was received on 06.07.2011 from the Court of Addl. Chief

Judicial Magistrate, Kurukshetra. The untraced report was sent to the petitioner-company by way of notice dated 12.07.2011 along with copy of FIR, RC, driving licence etc., but the insurance company refused to pay any amount.

2. The claim of respondent No. 1 was resisted by the petitioner company on the ground that there was violation of the terms and conditions of the insurance policy.

3. Before the Permanent Lok Adalat, efforts for conciliation were made, but could not succeed. The Permanent Lok Adalat, after going through the facts and circumstances of the case, passed the impugned Award (Annexure P-1).

4. Learned counsel for the petitioner-company has argued that under Section 22(C) of the Legal Services Authorities Act, 1987, jurisdiction of the Permanent Lok Adalat was restricted to amicable settlement between the parties. The offence under Section 380 IPC was non-compoundable, therefore, the Permanent Lok Adalat did not have the jurisdiction to entertain the matter in view of Section 22(C)(1) of the Act. In this regard, he has referred to a judgment delivered by the Hon'ble Supreme Court in United India Insurance Co. Ltd. Vs. Ajay Sinha and Another, .

5. Another argument of learned counsel for the petitioner was that there was a delay of 1 year and 5 months in giving information to the petitioner-company with regard to the alleged theft. The petitioner company has lost valuable right to investigate the matter. The FIR was registered on 03.02.2010 and thereafter, the legal notice was given to the petitioner-company on 12.07.2011, which is clearly after a gap of more than 11/2 years. As per condition No. 1 of the policy, immediate notice of any claim to the insurance company, is mandatory. Condition No. 1 of the policy is reproduced as under:-

"1. Notice shall be given in writing to the Company immediately upon the occurrence of any accidental loss or damage in the event of any claim and thereafter, the insured shall give all such information and assistance as the company shall require. Every letter, claim, summons and/or process or copy thereof shall be forwarded to the Company immediately on receipt by the Insured. Notice shall also be given in writing to the Company immediately the Insured shall have knowledge of any impending prosecution, inquest or fatal inquiry in respect of any occurrence which may give rise to a claim under this policy. In case of theft or criminal act which may be the subject of a claim under this policy, the insured shall give immediate notice to the police and cooperate with the Company in securing the conviction of the offender."

6. Learned counsel for the petitioner has argued that due to delay in sending the information to the petitioner-company, they have lost their valuable right for conducting a speedy and effective investigation. In the absence of any reconciliation, the Permanent Lok Adalat could not pass an Award directing the petitioner to pay compensation. In this regard, he has made reference to a judgment passed by this Court in Reliance General Insurance Company Limited v.

Vijay Kumar and another (2012-1) PLR 792, CWP No. 20825 of 2010 (decided on 04.01.2012).

7. Respondent No. 1-Ved Pal, in his written statement, has taken a stand that after the vehicle was stolen on 02.02.2010, he immediately got registered FIR No. 47 dated 03.02.2010, under Section 380 IPC at Police Station, Sadar Thanesar and thereafter, informed the insurance company. The Permanent Lok Adalat was deciding the claim of insurance of the vehicle, which was stolen. It was not examining the offence under IPC or Act. As per Section 22(D) of the Legal Services Authorities Act, the Lok Adalat can decide an issue on merits as well as at the pre-litigative stage.

8. After hearing learned counsel for the parties, the objection with regard to the fact that the Lok Adalat had no jurisdiction to entertain an application, is liable to be rejected, as the Lok Adalat was not making an assessment under the Indian Penal Code or was examining the fact, as to "whether the offence was non-compoundable or not." There was no dispute with regard to theft of the vehicle in question. The objection of the petitioner-company is that respondent No. 1 had given intimation after a gap of 11/2 years. The fact that the FIR had been registered on 03.02.2010 i.e. very next day of the theft, clearly shows that there was no delay on the part of respondent No. 1 in informing the police about the theft of vehicle. A Coordinate Bench of this Court in ICICI Lombard General Insurance Co. Ltd. v. Permanent Lok Adalat, Ferozepur and others, CWP No. 12562 of 2012 (decided on 06.07.2012) while examining the issue of jurisdiction of the Permanent Lok Adalat, held that the objection with regard to jurisdiction should have been taken by the petitioner before the Lok Adalat. Having accepted and participated in the proceedings of the Lok Adalat, the question of jurisdiction cannot be permitted to be raised to defeat the validity of the proceedings in favour of an incumbent. Moreover, as per Section 22(D) of the Act, the Permanent Lok Adalat while conducting conciliation proceedings or deciding a dispute on merit under the Law, is to be guided by the principles of natural justice, objectivity, fair play, equity and other principles of natural justice. Section 22-D of the Act is reproduced as under:-

"22-D. Procedure of Permanent Lok Adalat. The Permanent Lok Adalat shall, while conducting conciliation proceedings or deciding a dispute on merit under this Act, be guided by the principles of natural justice, objectivity, fair play, equity and other principles of natural justice, and shall not be bound by the Code of Civil Procedure, 1908 (5 of 2008) and the Indian Evidence Act, 1872 (I of 1872)."

9. In the present case, even though there was a delay of 11/2 years in giving legal notice to the petitioner-company by respondent No. 1, but the fact that the vehicle had been stolen is not being disputed, as FIR No. 47 dated 03.02.2010, under Section 380 IPC was immediately got lodged at Police Station Sadar, Thanesar.

10. Recently, the Hon"ble Supreme Court in Bar Council of India Vs. Union of India (UOI), , while examining the provisions of Section 22(C) of the Legal Services Authorities Act, 1987, has held that the purpose of creating a Forum under the Public Utility Services" was to offer an opportunity to get the petty disputes decided by providing an alternative Forum other than the Civil Court. In para Nos. 28 and 29 of the aforesaid judgment, the Hon"ble Supreme Court has observed as under:-

"28. Sine qua non of taking cognizance of a dispute concerning public utility service by the Permanent Lok Adalat is that neither party to a dispute has approached the civil court. There is no merit in the submission of the petitioner that the service provider may pre-empt the consideration of a dispute by a Court or a forum under special statute by approaching the Permanent Lok Adalat established under Chapter VI-A of the 1987 Act and, thus depriving the user or consumer of such public utility service of an opportunity to have the dispute adjudicated by a civil court or a forum created under special statute. In the first place, the jurisdiction a created under the Special Statutes has not been taken away in any manner whatsoever by the impugned provisions. As noted above, the Permanent Lok Adalats are in addition to an not in derogation of for a provided under Special Statutes. Secondly, not a single instance has been cited where a provider of service of public utility in a dispute with its user has approached the Permanent Lok Adalat first. The submission is unfounded and misplaced.

29. The alternative institutional mechanism in Chapter VI-A with regard to the disputes concerning public utility service is intended to provide an affordable, speedy and efficient mechanism to secure justice. By not making applicable the Civil Procedure Code and the statutory provisions of the Indian Evidence Act, there is no compromise on the quality of determination of dispute since the Permanent Lok Adalat has to be objective, decide the dispute with fairness and follow the principles of natural justice. Sense of justice and equity continue to guide the Permanent Lok Adalat while conducting conciliation proceedings or when the conciliation proceedings fail, in deciding a dispute on merit."

Resultantly, in the light of the above discussion and the law laid down by the Hon"ble Supreme Court and this Court in the aforesaid judgments, no ground is made out to interfere in the impugned order/Award dated 29.06.2012 (Annexure P-1).

Dismissed.