(2016) 09 P&H CK 0009

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 17762 of 2016

Oriental Insurance Company Ltd. — APPELLANT

Vs

M/s. P.S. Logistics — RESPONDENT

Date of Decision : 02-09-2016

Acts Referred:
Rajasthan State Legal Services Authority Act, 1987 — Section 22(c)

Citation : (2017) 2 RCRCivil 232

Hon'ble Judges : Rakesh Kumar Jain, J.

Bench : Single Bench

Advocate : Ms. Vandana Malhotra, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

Rakesh Kumar Jain, J. - The Insurance Company has challenged the order passed by the Permanent Lok Adalat (Public Utility Services), Gurgaon, dated 07.05.2015, by which application filed by respondent No.1 under Section 22-C of the Legal Services Authority Act, 1987 (hereinafter referred to as the "Act") has been allowed.

2. In short, respondent No.1 purchased a Tempo bearing registration No.HR-55N-9210 and got it insured with the petitioner-company for a sum of Rs. 2,02,500/- for the period 19.08.2013 to 18.08.2014. The said Tempo was stolen on 16.10.2013 from the area of village Masani, District Rewari, for which an application was given by respondent No.1 on 17.10.2013 to the police of the Police Station Dharuhera, District Rewari, on the basis of which FIR No.436 dated 28.10.2013, under Section 379 IPC was registered at Police Station Dharuhera, District Rewari. Respondent No.1 informed the Insurance Company also regarding theft of the vehicle and submitted all necessary documents but, vide letter dated 27.08.2014, his claim was rejected. Thereafter, respondent No.1 filed an application under Section 22-C of the Act, which has been allowed by the Permanent Lok Adalat vide its order dated 07.05.2015 and hence, the present petition has been filed.

3. The case set up by the petitioner is that the report of theft was made to the police after 11 days and to the petitioner-company after 22 days, which is a breach of the condition of the insurance policy, in which it is provided that the insured has to intimate the Insurance Company immediately after the theft or accident, as the case may be. In support of its contention, counsel for the petitioner has relied upon a decision of this Court in the case of National Insurance Co. Ltd. v. State of Haryana and others, 2013(1) R.C.R. (Civil) 434 and a Judgment of the Supreme Court in the case of Oriental Insurance Co. Ltd. v. Parvesh Chander Chadha, Civil Appeal No. 6739 of 2010, arising out of SLP(C) No. 12741 of 2010, decided on 17.08.2010.

4. I have heard learned counsel for the petitioner and perused the available record.

5. As a matter of fact, the intimation to the police was given by respondent No.1 on the very next day i.e. 17.10.2013 but the FIR was registered after 11 days, which was beyond the control of respondent No.1 and the intimation was given to the Insurance Company after 22 days.

6. In Oriental Insurance Co. Ltd.''s case (supra), the theft had occurred between 18.01.1995 and 20.01.1995, the FIR was lodged on 20.01.1995 but the intimation to the Insurance Company was given on 22.05.1995 i.e after 4 months. Similarly, in National Insurance Co. Ltd.''s case (supra), the FIR was lodged after 26 days and intimation was given to the insurance company after 275 days but in the present case, the application was given to the police of the Police Station Dharuhera, District Rewari on the next day of the incident i.e. 17.10.2013 as the theft took place on 16.10.2013 and it is the fault of the police who had taken 11 days to convert the application into the FIR, which was beyond the control of respondent No.1.

7. In the case of HDFC Ergo General Insurance Company Ltd. v. Permanent Lok Adalat and another, CWP No.8943 of 2016, decided on 09.05.2016, the intimation was given to the insurance company after 14 days and it has been held by this Court that since the FIR was registered immediately but the insurance company was intimated after 14 days, therefore, there was hardly any error on the part of the insured and the delay was not inordinate.

8. Similarly, in the present case, there is hardly any fault on the part of respondent No.1 who had intimated the police on the very next day of the theft but intimated the Insurance Company after 22 days i.e. 07.11.2013, which is not an inordinate delay as against the period involved in Oriental Insurance Co. Ltd.''s case (supra) in which there was a delay of 4 months, and in National Insurance Co. Ltd.''s case (supra), in which there was 275 days'' delay.

9. In view of the aforesaid discussion, I do not find any merit in the present petition and hence, the same is hereby dismissed.

