

(2011) 04 CHH CK 0001

In the Chhattisgarh High Court

Case No : Writ Petition (227) No. 6728 of 2008 and Writ Petition (227) No. 5470 of 2008

Superintending Engineer CSEB Bilaspur Division and Another APPELLANT
Vs

Public Utility Permanent Lok Adalat, Bilaspur and Others RESPONDENT

 Chhattisgarh State Electricity Board and Others Vs
Dhannu Yadav

Date of Decision : 13-04-2011

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 34
Civil Procedure Code, 1908 (CPC) — Section 89
Legal Services Authorities Act, 1987 — Section 19, 22A, 22B, 22B(2), 22C

Citation : (2011) 2 CG.L.R.W. 283 : (2011) 4 CGLJ 460

Hon'ble Judges : Manindra Mohan Shrivastava, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Hon"ble Shri Manindra Mohan Shrivastava, J.—By this common order, the aforesaid writ petitions are being disposed of, as common question of law arises for consideration in these petitions. W.P. (227) No. 5470/08 has been filed to assail the order dated 27.8.2008 passed by the Public Utility Permanent Lok Adalat, Bilaspur. An application was filed by respondents 2 & 3 before the Permanent Lok Adalat (for short "the P.L.A.") on 24.9.2007 for grant of compensation of Rs. 2 lacs on account of death of Ku. Mana alias Kunti, daughter of the claimants, who died due to electrocution by coming in contact with a broken wire of electricity, which fell upon deceased- Ku. Mana while she was taking bath in an open canal. The claim of respondents No. 2 & 3 was denied by the petitioners. The P.L.A. framed various issues. An additional issue was framed by the P.L.A. at the instance of one of its learned member, as to whether the P.L.A. had jurisdiction to adjudicate the dispute. The Lok Adalat held that it had jurisdiction to adjudicate the dispute and grant compensation to respondents 2 & 3 on account of death of their daughter due to electrocution, as the accident was

caused in the course of supply of electricity by an establishment.

2. The petitioners in the aforesaid writ petition have challenged the aforesaid order of the P.L.A. on the sole ground that the P.L.A. had no jurisdiction under the law to entertain a dispute of such a nature where claim for compensation based on tortious liability is raised, as the dispute does not relate to any public utility service and it is not a case where the consumer of electricity has claimed any compensation arising out of any dispute concerning of services or touching any matter relating to providing service, but is a case of accident, resulting in death of a person who did not stand in the capacity of recipient of service or consumer of electricity and the only remedy available to respondents 2 & 3 is to file a regular civil suit claiming compensation.

3. W.P (227) No. 5470/08 has been filed by the then existing Chhattisgarh State Electricity Board, aggrieved by an order passed by the P.L.A., Bilaspur on 14th July, 2008, by which, compensation has been awarded to the claimant on account of death of his cattle by electrocution. In this case also, the claimant's cattle came in contact with the electricity pole and the cattle died. The claimant submitted application on 15.10.2006 before the P.L.A., claiming compensation of Rs. 20,000/- against the petitioner. While denying the claim of the claimant, the petitioners, in this petition raised a specific objection with regard to the jurisdiction of P.L.A. by making similar submissions before the P.L.A. as has been raised in the other writ petition. The P.L.A. decided the issue relating to jurisdiction against the petitioners holding that as the cattle of the claimant died by coming into contact with the electricity pole, the claimant is entitled to compensation, as the accident occurred due to negligence of the petitioners and the death of cattle took place during the course of operation of electricity supply.

4. Learned Counsel for the petitioners in both the writ petitions raised an important question for determination of this Court and that is-whether the P.L.A. constituted u/s 22 B of the Legal Services Authorities Act, 1987 (hereinafter referred to as "the Act of 1987") had jurisdiction to entertain a claim for compensation based on tortious liability which are un-connected with service?. Learned Counsel for the petitioners in the two writ petitions vehemently argued to contend that the statutory scheme engrafted under Chapter - VI A of the Act of 1987 did not intend to confer any plenary jurisdiction like a civil Court to entertain any claim for compensation based on tortious liability merely because the accident was an outcome of alleged negligence on the part of one who was engaged in providing public utility services as defined u/s 22 A (b) of the Act of 1987, unless the dispute essentially related to service as between the claimant and the service provider. In other words, the provisions contained in Section 22 B of the Act of 1987 intended to confer limited jurisdiction, though of wide amplitude, on the P.L.A., only in respect of specified public utility service i.e. to draw conciliation proceedings in the matter of a dispute as between the service provider and service recipient touching upon and connected with the service and to adjudicate in the event of failure of conciliation proceedings. Learned Counsel

for the petitioners in the two writ petitions further argued that the object behind constitution of P.L.A. is to mainly make an attempt for conciliation and amicable settlement of dispute between the parties and unless both the parties give their consent, the P.L.A. constituted u/s 22 B of the Act of 1987 has no jurisdiction to adjudicate upon the dispute in the garb of power conferred u/s 22 C (8) of the Act of 1987. In order to buttress their submissions, Learned Counsel for the petitioners relied upon the decision of Supreme Court in the case of United India Insurance Co. Ltd. Vs. Ajay Sinha and Another, , decision of High Court of Kerala in the cases of M/s. New India Assurance Company Ltd. Vs. Sabharathnam @ Sabha Rathinam & Ors. WP (C) No. 30059/08(C) decided on 11th Nov., 2008, Bhooresh Vs. M/s. New India Assurance Co. Ltd. TVPM W.A. No. 316/09 decided on 10-8-2009, decision of High Court of Jharkhand in the cases of Branch Manager, Tata AIG General Insurance Co. Ltd. East Singhbhum and another Vs. Mrs. Bandana Devi. W.P. (S) No. 2557/08 decided on 25th February, 2010, & Bharat Sanchar Nigam Limited, Ranchi Vs. Chedi Ram Ganjhu & Ors. W.P. (C) No. 684/09 decided on 6th May, 2010.

5. On the other hand, Learned Counsel for private respondents in both the cases supported the order passed by the P.L.A., by contending that the P.L.A. has been conferred wide jurisdiction and looking to the objective and purpose behind enactment of the Act of 1987, and, in particular, object and purpose of pre-litigation conciliation and settlement under newly introduced Chapter VI A inserted by the Legal Services Authorities (Amendment) Act, 2002 (Act 37 of 2002), the provision contained in Section 22B of the Act of 1987 which confer jurisdiction on the Lok Adalat, seek to confer jurisdiction, in widest amplitude, to not only draw conciliation proceedings in all kinds of disputes, but also to adjudicate, in the event of failure of an agreement, disputes of any other nature whatsoever which involve a service provider in respect of public utility service as meant in Section 22A (b) of the Act of 1987. They submitted that the provision contained in Section 22 B of the Act of 1987 is required to be construed liberally so as to advance the object and purpose of the Act of 1987 and, therefore, it is not necessary that the dispute must necessarily involve service provider and service recipient. It is their contention that the P.L.A. has wide jurisdiction to adjudicate upon a dispute, wherein, a claim based on tortious liability is raised and compensation is claimed on account of any accident due to operation of public utility service. Reliance has been placed on the decision in the case of National Insurance Co. Ltd. through Asst. Manager Vs. Vijay Kumar Sharma and ors. AIR 2008 Jhar. 14, decided on 10-5-2007 and decision of Kerala High Court in the case of M/s. New India Assurance Camp. Ltd.2 (Supra).

6. I have considered the rival submissions made by Learned Counsel for the parties and perused the records.

7. The issue which falls for determination in the batch of petitions requires examination of the statutory scheme of the Act of 1987, object and purpose behind such enactment with more advertence to the object and purpose behind

inclusion of a new Chapter VI A by amending Act namely, the Legal Services Authorities (Amendment) Act, 2002 (Act 37 of 2002), providing for establishment of Permanent Lok Adalat and jurisdiction thereof u/s 22 B of the Act of 1987.

8. The statutory scheme of the Act of 1987 and that of newly introduced Chapter VI A, providing for pre-litigation conciliation and settlement, came-up for consideration of the Supreme Court in the case of Ajay Sinha¹ (supra). The provision contained in Chapter VI A providing for establishment of P.L.A. and jurisdiction thereof were also examined. It was held as under :

24. Section 89 of the Code of Civil Procedure, inter alia, was enacted to promote resolution of disputes through mutual settlement. Chapter VI-A of the Act seeks to achieve a different purpose. It not only speaks of conciliation qua conciliation but conciliation qua determination. Jurisdiction of Permanent Lok Adalat, although is limited but they are of wide amplitude. The two provisos appended to Section 22-C(1) of the Act curtail the jurisdiction of the Permanent Lok Adalat which are as under:

Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:

Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees:

25. Chapter VI-A stands independently. Whereas the heading of the Chapter talks of pre-litigation, conciliation and settlement. Section 22-C(8) of the Act speaks of determination. It creates another adjudicatory authority, the decision of which by a legal fiction would be a decision of a civil court. It has the right to decide a case. The term "decide" means to determine; to form a definite opinion: to render judgment. (See Advanced law Lexicon. 3rd Edn., 2005 at p. 1253.) Any award made by the Permanent Lok Adalat is executable as a decree. No appeal thereagainst shall lie. The decision of the Permanent Lok Adalat is final and binding on the parties. Whereas on the one hand keeping in view the parliamentary intent, settlement of all disputes through negotiation, conciliation, mediation, Lok Adalat and judicial settlement are required to be encouraged, it is equally well settled that where the jurisdiction of a court is sought to be taken away, the statutory provisions deserve strict construction. A balance is thus required to be struck. A court of law can be created under a statute. It must have the requisite infrastructure therefor. Independence and impartiality of Tribunal being a part of human right is required to be taken into consideration for construction of such a provision. When a court is created, the incumbents must be eligible to determine the lis.

26. An option is given to any party to a dispute. It may be a public utility service provider or a public utility service recipient. The service must have some relation with public utility. Ordinarily, insurance service would not come within the public utility service. But having regard to the statutory scheme, it must be held to be included thereunder. It is one thing to say that an authority is created under a

statute to bring about a settlement through alternate dispute resolution mechanism but it is another thing to say that an adjudicatory power is conferred on it. Chapter VI-A, therefore, in our opinion, deserves a closer scrutiny. In a case of this nature, the level of scrutiny must also be high. [See Anuj Garg and Others Vs. Hotel Association of India and Others,

27. Sub-section (1) of Section 22 C speaks of settlement of disputes. The authority has to take recourse to conciliation mechanism. One of the essential ingredients of the conciliation proceeding is that nobody shall be forced to take part therein. It has to be voluntary in nature. The proceedings are akin to one of the recognised ADR mechanism which is made of Medola. It may be treated on a par with conciliation and arbitration. In such a case the parties agree for settlement of dispute by negotiation, conciliation or mediation. The proceedings adopted are not binding ones, whereas the arbitration is a binding procedure. Even in relation to arbitration, an award can be the subject-matter of challenge. The provisions of the Arbitration and Conciliation Act, 1996 shall apply thereto. The jurisdiction in terms of Section 34 of the Arbitration and Conciliation Act, 1996 is wide. The court in exercise of the said jurisdiction may not enter into the merit of the case but would be entitled to consider as to whether the arbitrator was guilty of misconduct. If he is found to be biased, his award would be set aside. The scope of voluntary settlement through the mechanism of conciliation is also limited. If the parties in such a case can agree to come to settlement in relation to the principal issues, no exception can be taken thereto as the parties have a right of self-determination of the forum, which shall help them to resolve the conflict, but when it comes to some formal differences between the parties, they may leave the matter to the jurisdiction of the conciliator. The conciliator only at the final stage of the proceedings would adopt the role of an arbitrator.

28. Here, however, the Permanent Lok Adalat does not simply adopt the role of an arbitrator whose award could be the subject-matter of challenge but also the role of an adjudicator. Parliament has given the authority to the Permanent Lok Adalat to decide the matter. It has an adjudicating role to play.

39. What is important to note is that with respect to public utility services, the main purpose behind Section 22-C(8) seems to be that "most of the petty cases which ought not to go in the regular courts would be settled in the pre-litigation stage itself."

41. We must guard against construction of a statute which would confer such a wide power in the Permanent Lok Adalat having regard to sub-section (8) of Section 22-C of the Act. The Permanent Lok Adalat must at the outset formulate the questions. We, however, do not intend to lay down a law, as at present advised, that Permanent Lok Adalat would refuse to exercise its jurisdiction to entertain such cases but emphasise that it must exercise its power with due care and caution. It must not give an impression to any of the disputants that it, from the very beginning has an adjudicatory role to play in relation to its jurisdiction without going into the statutory provisions and restrictions imposed thereunder.

9. Section 22 B provides for establishment of Permanent Lok Adalat and the same being relevant for the present case is extracted herein below:

22-B. Establishment of Permanent Lok Adalats.-- (1) Notwithstanding anything contained in Section 19, the Central Authority or, as the case may be every State Authority shall, by notification, establish Permanent Lok Adalats at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification.

(2) xxx xxx xxx

A perusal of the aforesaid provision would show that the P.L.A. constituted in notification of the Central Authority or the State Authority may be established at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification. Thus, the Permanent Lok Adalats could exercise such jurisdiction in respect of one or more public utility services as may be specified in the notification. It has not been disputed before this Court that vide notification dated 11th January, 2007, the Chhattisgarh Legal Services Authority, in exercise of power conferred by sub-Section (2) of Section 22 B of the Act of 1987, established Permanent Lok Adalats at specified places for specified area and in respect of public utility services as specified in Section 22 A of the Act of 1987. Therefore, by virtue of the provision contained in Section 22 B of the Act of 1987, the Permanent Lok Adalats established by notification dated 11th January, 2007 could exercise jurisdiction in respect of all the public utility services as meant u/s 22 A (b) of the Act of 1987. The jurisdiction of the Public Utility Permanent Lok Adalat is essentially in respect of specified public utility services.

10. The Permanent Lok Adalats constituted and established u/s 22B of the Act of 1987 are not Courts of plenary jurisdiction or general jurisdiction like civil Courts, but such Permanent Lok Adalats exercise jurisdiction in respect of one or more public utility services. Legislature intention behind enacting "for exercising such jurisdiction in respect of one or more public utility services" has to be primarily gathered from the language of the statute itself in the background of the objects and reasons. The statement of objects and reasons behind enactment of Section 22A, 22B, 22C, 22D & 22E by introducing an altogether new Chapter VI A by Amendment Act No. 36 of 2002 as contained in the Legal Services Authorities (Amendment) Bill, 2002 read thus:

The Legal Services Authorities Act, 1987 was enacted to constitute legal services authorities for providing free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice were not denied to any citizen by reason of economic or other disabilities and to organize Lok Adalats to ensure that the operation of the legal system promoted justice on a basis of equal opportunity. The system of Lok Adalat, which is an innovative mechanism for alternate dispute resolution, has proved effective for resolving disputes in a spirit of conciliation outside the courts.

2. However, the major drawback in the existing scheme of organization of the Lok Adalats under Chapter VI of the said Act is that the system of Lok Adalats is mainly based on compromise or settlement between the parties. If the parties do not arrive at any compromise or settlement, the case is either returned to the court of law or the parties are advised to seek remedy in a Court of law. This causes unnecessary delay in the dispensation of justice. If Lok Adalats are given power to decide the cases on merits in case parties fails to arrive at any compromise or settlement, this problem can be tackled to a great extent. Further, the cases which arise in relation to public utility services such as Mahanagar Telephone Nigam Limited, Delhi Vidyut Board, etc., need to be settled urgently so that people get justice without delay even at pre-litigation stage and thus most of the petty cases which ought not to go in the regular courts would be settled at the pre-litigation stage itself which would result in reducing the workload of the regular courts to a great extent. It is therefore, proposed to amend the Legal Services Authorities Act, 1987 to set up Permanent Lok Adalats for providing compulsory pre-litigative mechanism for conciliation and settlement of cases relating to public utility survives.

11. One of the salient features of the proposed legislation by way of amendment stated, is :

3. The salient features of proposed legislation are as follows:

(i) x x x

(ii) the Permanent Lok Adalat shall exercise jurisdiction in respect of one or more public utility services such as transport services of passengers or goods by air road and water, postal, telegraph or telephone services, supply of power, light or water to the public by any establishment, public conservancy of sanitation, services in hospitals or dispensaries; and insurance services.

12. It is well settled that the statement of objects and reasons accompanying a Bill can be used for the limited purposes of understanding the background and the antecedents, state of affairs, leading to the legislation, as held by the Supreme Court in the case of Aswini Kumar Ghosh and Another Vs. Arabinda Bose and Another, . State of West Bengal Vs. Union of India, and catena of decisions. Summering the use of statements of objects and reasons, in the process of construction, in the case of Bhaiji Vs. Sub Divisional Officer, Thandla and Others, the Supreme Court laid down that reference to the statement of objects and reasons is permissible for understanding the background, to understand state of affairs, the surrounding circumstances in relation to the statute and the evil which the statute sought to remedy.

The statement of objects and reasons behind introducing Chapter VI A containing Section 22A to 22E reveal that the new scheme of establishment of P.L. As was introduced in order to give power to Lok Adalats to decide the cases on merits in the eventuality of failure of agreement. Moreover, the statement of objects and reasons stated that the case which arise in relation to public utility service need

to be settled urgently so that people get justice without delay even at pre-litigation stage and thus most of the petty cases which ought not to go in the regular Courts would be settled at the pre-litigation stage itself, which would result in reducing the workload of the regular Courts to a great extent and it was, therefore, proposed to amend the Act of 1987 to set-up Permanent Lok Adalats for providing compulsory pre-litigation mechanism of conciliation and settlement of cases relating to public utility services. Clause 3 (ii) of the Statement of Objects & Reasons dealing with the salient features of the proposed Legislation, seeking to amend the Act of 1987, further reiterated that the P.L.A shall exercise jurisdiction in respect of one or more public utility services such as transport services of passengers or goods or by air, road and water, postal, telegraph or telephone services, supply of power, light or water to the public by an establishment, public conservancy or sanitation, services of hospitals and dispensaries and insurance service.

In the aforesaid background of Legislation, the provision contained in Section 22B requires to be interpreted. It is one of the cardinal and well settled rule of interpretation that the intention of the Legislature is primarily to be gathered from the language used, as held by the Supreme Court in the case of Gwalior Rayons Silk Mfg. (Wvg.) Co. Ltd. Vs. Custodian of Vested Forests, Palghat and another, The rule of literal construction requires that the words of a statute are first understood in their natural, ordinary or popular sense and phrases and sentences are construed according to their grammatical meaning, unless that leads to some absurdity or unless there is something in the context, or in the object of the statute to suggest the contrary (please see State of Rajasthan Vs. Babu Ram,

13. Section 22 B of the Act of 1987 starts with a non-obstante clause having overriding effect on the provision contained in Section 19 of the Act. It talks of establishment of Permanent Lok Adalats at such places and for exercising such jurisdiction in respect of one or more public utility services and for such area as may be specified in the notification. The expression "for exercising such jurisdiction in respect of one or more public utility services" is clearly indicative of *sententia legis* that the Permanent Lok Adalats are intended to be established for exercising jurisdiction in respect of one or more public utility services. The said expression limits the jurisdiction of the P.L.A.s in respect of public utility services, as are enumerated in Section 22 A (b) of the Act of 1987.

14. Use of words "in respect of" further clarifies legislative intention that the P.L.A. would be exercising jurisdiction relating to one or more public utility services. In the case of Tolaram Relumal and another Vs. The State of Bombay AIR 1954 SC 196, interpreting the words "in respect of" occurring in Section 18 Hotel and Lodging House Rates (Control) Act, 1947, it was construed as something relating to words "with reference to"

In the case of Union of India (UOI) and Another Vs. Vijay Chand Jain, , the Supreme Court held that the words "in respect of" admit of a wide connotation in

the context of Section 23 (1B), the expression means "being connected with". Taking into consideration that Section 22B deals with establishment of Permanent Lok Adalats and seeks to define the jurisdiction of P.L.As. the words "in respect of" occurring before "one or more public utility service", upon just, logical and fair interpretation would mean that the Lok Adalats are intended to be established to exercise jurisdiction in relation to disputes relating to or with reference to or connected with public utility services. Therefore, the legislative intention is to confer limited jurisdiction on P.L.As and not a plenary jurisdiction like a regular Court. In the case of Ajay Sinha (supra) also, the Supreme Court while dealing with the nature, scope and extent of jurisdiction of P.L.As under the statutory scheme of Chapter VIA, observed that the Court must guard against the construction of statute which would confer such a wide power in the P.L.A., having regard to sub-section (8) of Section 22C of the Act of 1987.

15. The expression "public utility services" embodied in Section 22B of the Act of 1987, on natural, plain and grammatical meaning in the context in which it has been used, leads to conclusion that the P.L.As. have jurisdiction in respect of disputes connected with services, which are in the category of public utility services as enumerated in Section 22 A (b) of the Act of 1987. In the expression "public utility services", words "public utility" qualifies the word "service". Therefore, the jurisdiction of P.L.As. is essentially relating to, service which pre-supposes existence of a dispute as between the service provider and service recipient.

16. If the provision contained in Section 22 B are interpreted in a manner to confer wide jurisdiction of P.L.As, to deal with and adjudicate upon the disputes even though they are not related to or connected with service, merely because one of the party to the dispute is an establishment, providing public utility service, the word "service" used in Section 22 B of the Act of 1987 would become superfluous and to say, otiose. In the case of Aswini Kumar Ghose⁷ (supra), explaining the rule that rejection of words is to be avoided, it was held as under:

26.....It is not a sound principle of construction to brush aside words in a statute as being inapposite surplusage, if they can have appropriate application in circumstances conceivably within the contemplation of the statute.

In the case of U.P. Jal Nigam, Lucknow through its Chairman and another Vs. M/s. Kalra Properties (P) Ltd. Lucknow and others, the Supreme Court held as under :

(7).....In the interpretation of statutes the Courts always presume that the legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect.....

The aforesaid principles were again reiterated in the case of Ghanshyamdas Vs. Regional Asstt. Commr. of Sales Tax, Nagpur & Ors. AIR 1964 SC 766 in following words:

A construction which would attribute redundancy to a Legislature shall not be accepted except for compelling reasons.

Further, in the case of Union of India (UOI) and Another Vs. Hansoli Devi and Others, , the Supreme Court held as under:

9. Before we embark upon an inquiry as to what would be the correct interpretation of Section 28A, we think it appropriate to bear in mind certain basic principles of interpretation of a statute. The rule stated by Tindal, C.J. in *Sussex Peerage case*⁸ still holds the field. The aforesaid rule is to the effect: (ER p. 1057)

If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves alone do, in such case, best declare the intention of the lawgiver.

It is a cardinal principle of construction of a statute that when the language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act.....

It is no doubt true that if on going through the plain meaning of the language of statutes, it leads to anomalies, injustices and absurdities, then the court may look into the purpose for which the statute has been brought and would try to give a meaning, which would adhere to the purpose of the statute. Patanjali Sastri, C.J. in the case of *Aswini Kumar Ghose v. Arabinda Bose* had held that it is not a sound principle of construction to brush aside words in a statute as being inapposite surplusage, if they can have appropriate application in circumstances conceivably within the contemplation of the statute. In *Quebec Railway, Light Heat & Power Co. Ltd. v. Vandry* it had been observed that the legislature is deemed not to waste its words or to say anything in vain and a construction which attributes redundancy to the legislature will not be accepted except for compelling reasons.

17. In the present case, considering the object of the Legislation and the context in which the jurisdiction has been conferred on P.L.A.s, there are no compelling reasons to treat word "service" as superfluous.

18. Therefore, the disputes which can be brought for conciliation and in the event of failure, for adjudication before P.L.A. constituted u/s 22 B of the Act of 1987, are essentially disputes as between the service provider and recipient of service connected with public utility service. In the case of *Ajay Sinha*¹ (supra), the Supreme Court also noted the nature of dispute to be dealt with by the P.L.As while examining the statutory scheme of Chapter VI A of the Act of 1987, in following words:

26. An option is given to any part) to a dispute. It may be a public utility service

provider or a public utility service recipient. The service must have some relation with public utility. Ordinarily, insurance service would not come within the public utility service. But having regard to the statutory scheme, it must be held to be included thereunder. It is one thing to say that an authority is created under a statute to bring about a settlement through alternate dispute resolution mechanism but it is another thing to say that an adjudicatory power is conferred on it. Chapter VI-A, therefore, in our opinion, deserves a closer scrutiny. In a case of this nature, the level of scrutiny must also be high. (See *Anuj Garg v. Hotel Assn. of India.*)

19. The upshot of aforesaid discussions is that the Permanent Lok Adalats can exercise the jurisdiction in the matter of disputes arising out of services relating to public utility service and do not possess any plenary jurisdiction to adjudicate upon disputes relating to claim based on tortious liability merely because one of the party to the dispute is one who is engaged in operating a public utility service.

20. In both the writ petitions, the applications were filed before the P.L.As claiming compensation on account of death due to electrocution. Those were not the case where the recipient of a public utility service suffered any injury in its capacity as such. Those are the cases where, probably due to negligence in maintaining electric service lines, a person or cattle came in contact with the service line and died of electrocution. Claim of compensation in these cases are therefore based on tortious liability and cannot be said to be a dispute relating to or with reference to or connected with public utility services. In the cases which have been cited by Learned Counsel for the petitioner also, similar view has been taken in so far as the nature and extent of jurisdiction of Lok Adalats is concerned, though, in somewhat different situation, relating to other service. Learned Counsel for the respondents relied upon the observations made by the High Court of Kerala in paragraph-8 of its judgment in the case of *Sabharathnam @ Sabha Rathinam W.P. (C) No. 684/09* decided on 6th May, 2010 (*supra*) and judgment of High Court of Jharkhand in the case of *Vijay Kumar Sharma WP (C) No. 30059/08(C)* decided on 11th Nov., 2008 (*supra*). In the case of *Sabharathnam @ Sabha Rathinam W.P. (C) No. 684/09* decided on 6th May, 2010 (*supra*), the High Court of Kerala finally concluded to say:

12. The discussion made above leads me to the WPC 30059 and 30067 of 2008, 15 conclusions that a Permanent Lok Adalat would be bereft of jurisdiction to decide a claim petition filed by a claimant arising out of motor accident. As the statutory position currently obtains only the Tribunals constituted under the Motor Vehicles Act have jurisdiction to decide such cases. The Permanent Lok Adalat was devoid of jurisdiction to entertain Ext. P-1 complaint or pass Ext. P-3 order.

The aforesaid conclusion was arrived at after examining the statutory scheme of the provisions contained in Chapter VI A dealing with establishment of PL.As as provided u/s 22B and meaning of public utility service as defined in Section 22A(b)(vi) relating to insurance service. The conclusion in that case was arrived

at by observing as below:

10..... If the court finds that the accident occurred on account of the negligence of the driver of the vehicle, then the claimant is entitled to compensation. But this is a matter for adjudication by a Court on an aspect which essentially involves a claim by an injured person against a tortfeasor and that, in my view is not comprehended by the term ""insurance service" as occurring in Section 22A (b) (vi) of the Legal Services Authorities Act. In other words, a dispute which comes into existence from a claim petition filed by the injured in a motor accident is not a dispute touching upon "insurance service" for the purpose of chapter VI B of the Legal Services Authorities Act.

Therefore, the aforesaid decision does not help the respondents but only supports the view which has been taken by this Court.

21. In the decision of the Jharkhand High Court in the case of Vijay Kumar Sharma⁶ (supra), it was held that the Insurance Company cannot escape from its liability to pay claim to the third party saying that the insurance service will not include the third party claim, as such claim is part of such service/policy. Therefore, the same is clearly distinguishable on the facts of the present case.

22. Consequently, it has to be held that the order dated 27th August, 2008 passed in W.P. (227) No. 6728/08 and order dated 14th July, 2008 passed in W.P. (227) No. 5470/08 by the Permanent Lok Adalats are clearly in excess of jurisdiction and authority vested in it under the law. The writ petitions are accordingly allowed and the orders referred to above, passed by the Permanent Lok Adalats in both the cases are hereby set aside.

23. The claimants, of course, will be at liberty to take recourse to proper remedy for compensation, as may be available to them under the law.

24. A copy of this order be placed in the record of connected writ petition JW.P. (227) No. 5470/081. Parties shall bear their respective costs.