

(2014) 11 P&H CK 0026

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 24399 of 2014

Sriram General
Insurance Company
Ltd.

APPELLANT

Vs

Naveen Balhara and
Others

RESPONDENT

Date of Decision: Nov. 29, 2014

Citation: (2015) 178 PLR 311

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: Vinod Kumar Arya, Advocate for the Appellant;

Final Decision: Dismissed

Judgement

K. Kannan, J.

1. The insurance company is in challenge to the award passed by the Permanent Lok Adalat where a claim had been made by an insured for the theft occasioned to his vehicle. The fact of theft was reported to the police on the same day when the vehicle was lost in a circumstance when the complainant had entrusted the vehicle to a person who wanted a test drive before purchasing the vehicle but he really drove it away and it turned out later that he was fake purchaser and that his intent was criminal. The complaint did not yield to a positive result of being traced and he lost precious time in making a complaint to the insurance company. He had his reasons to give as to why he could not make the claim to the insurance company namely that the insurance paper and all the vehicular documents were in the car itself and he could not trace his own copy of the insurance policy to engage the insurer with any communication for giving the details of theft. When the insurance company repudiated the policy on condition that there had been a violation of its important term that the insured-complainant did not inform the fact of theft within 48 hours, the Permanent Lok Adalat found that there had been negligence on his

part but it did not as such to completely deny to him the insured sum. It relied on a judgment of the Supreme Court and inflicted on the petitioner a denial of the insured claim upto 25% and made an award only for 75% of the insured sum.

2. The counsel for the insurance company states that it was breach of essential term when the petitioner did not give the complaint within 48 hours. I will not hold it so, for, the specification of time is invariably to ensure that the claim is genuine and the person who lodges a complaint of theft does not create documents to make appear as though it is a theft. If there are circumstances as to why he could not register complaint immediately and the Permanent Lok Adalat believed so but said all the same that there was an element of negligence on his part and it was relying on the judgment of the Supreme Court, I will not find that an enactment which makes the decision of the Permanent Lok Adalat final should be reopened by this Court in a writ petition as though the award is an appealable order, unless there is a want of jurisdiction or complete perversity in the approach adopted by the Permanent Lok Adalat. I will find no reason for interference.

3. Learned counsel for the insurance company also argues that in the Supreme Court judgment on which the Permanent Lok Adalat was relying on, the Supreme Court had caused an abatement of 50% but in this case 25% has been denied to the petitioner. Since the amount itself is not very large for the insurance company, the benefit of 25% is an exercise of discretion that shall not be taken as any justifiable ground for intervention. The award is maintained and the writ petition is dismissed.