

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W. P. (C) No. 5280 of 2008

M/s Oriental Insurance Company Ltd., represented through S.P. Singh S/o- Sri Mathura Singh, Deputy Manager, Incharge Legal Cell, M/s Oriental Insurance Company Ltd., Divisional Office No. 1, Prabodh Tower, S.N. Ganguly Road, Main Road, Ranchi
 Petitioner

Versus

1. Manju Devi, W/o- Late Raj Kumar Sinha
2. Binit Kumar Srivastava, S/o- Late Raj Kumar Sinha, Minor represented by his mother
 Both Resident of Village-Sadiya Hirki, Pipara, Sahapur, Dist-Bhojpur, Arra, Bihar at present residing at Upper Chutia, Dhumsa Toli, C/o Manoj Manto PO&PS Chutia, Ranchi
3. Dukma Lakra, S/o- Late Mangra Lakra, R/o- Vill Ladam Piri, PS Namkum, Dist-Ranchi
 Respondents

CORAM: HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR

For the Petitioner : Mr. Nisha Thakur, Advocate
 For the Respondents : Mr. Ashutosh Anand, Advocate
 Mr. Binit Chandra, Advocate

10/13.02.2015 Seeking quashing of award dated 05.05.2008 in PLA

Case No. 862 of 2007, the present writ petition has been filed.

2. The brief facts of the case are that, the petitioner-Oriental Insurance Company is a Government Company within meaning of Section 617 of the Companies Act, 1956. The tractor bearing registration no. JH01A-1933 with trailer registration no. JH01A-1934 belonging to one Raj Kumar Sinha, husband of the respondent no. 1 were insured by the petitioner-Insurance Company for the period between 31.03.2006 to 30.03.2007. It is stated that on 31.12.2006, an accident took place in which the deceased namely, late Raj Kumar Sinha who was posted as ASI died. On the statement of

one Kartik Singh Munda, Constable, a First Information Report being Namkum P.S. Case No. 200/2006 under Section 279, 337 and 304A of IPC was registered. An application under Section 22C of the Legal Services Authorities Act, 1987 r/w section 166 of the Motor Vehicles Act, 1988 for claim of Rs. 9,70,000/- with 9% interest, was filed by the legal heirs and claimants of deceased late Raj Kumar Sinha. A separate application under Section 140 of MV Act, 1988 seeking award of compensation of Rs. 50,000/- under "No Fault Liability" was also filed. The petitioner-Insurance Company appeared and filed written statement denying the claim on the ground that it is a case of contributory negligence. The owner of the tractor also appeared and filed written statement denying his liability under Section 140 of the MV Act, 1988. However, order/award dated 05.05.2008 directing the petitioner-Insurance Company to pay a sum of Rs. 50,000/- as interim compensation to the respondent no. 1 was passed.

3. Heard the learned counsel for the parties.

4. Mrs. Nisha Thakur, the learned counsel for the petitioner submits that a permanent Lok Adalat has no adjudicatory power. It has no power to decide a dispute under Section 22C(8) and it is a Court only for a limited purpose which acts as a conciliator which is empowered with the administrative power to decide the dispute but it does not have an adjudicatory power and it does not perform judicial function.

It is submitted that in view of the judgment in "*State of Punjab and others vs. Ganpat Raj*" reported in (2006) 8 SCC 364, in "*State of Punjab vs. Phulan Rani & Anr.*" reported in (2004) 7 SCC 555 and in "*National Insurance Company Ltd. vs. Most. Budhani Kisku and another*", reported in 2007 (4) JLJR 292, the award is liable to be set-aside. It is further submitted that since the facts have been disputed by the parties and there was no settlement/compromise arrived between the parties, no order under Section 140 of the MV Act, 1988 can be passed.

5. As against the above, the learned counsel for the respondent nos. 1 and 2 relied on the decision in "*Bar Council of India vs. Union of India*", reported in (2012) 8 SCC 243 and submits that the permanent Lok Adalat constituted under Section 22 B (1) exercises conciliatory as well adjudicatory power. It is further submitted that the occurrence is not denied and the husband of the respondent no. 1, late Raj Kumar Sinha died in an accident is also not denied and therefore, the compensation of Rs. 50,000/- awarded to the respondent under Section 140 of the MV Act, 1988 was just and proper and no interference is required in the matter.

6. I have carefully considered the submissions of the learned counsel for the parties and perused the documents on record.

7. Before advertng to the facts of the case, it is necessary to notice the decision of the Hon'ble Supreme Court in

"S.N. Pandey vs. Union of India and another" reported in (2012) 8 SCC 261. In the said case, the Hon'ble Supreme Court has observed as under :

2 “.....Lok Adalat is a mode of dispute resolution which has been in vogue since over two decades. Hundreds of thousands of cases have been settled through this mechanism and is undisputedly a fast means of dispensation of justice.....”

8. In "Bar Council of India" case after analysing various provisions of the Legal Services Authorities Act, the Hon,ble Supreme Court held that the permanent Lok Adalat has power to adjudicate a dispute relating to public utility service. The Hon'ble Supreme Court held thus ;

27. “Can the power conferred on Permanent Lok Adalats to adjudicate the disputes between the parties concerning public utility service up to a specific pecuniary limit, if they do not relate to any offence, as provided under Section 22C(8), be said to be unconstitutional and irrational? We think not. It is settled law that an authority empowered to adjudicate the disputes between the parties and act as a tribunal may not necessarily have all the trappings of the court. What is essential is that it must be a creature of statute and should adjudicate the dispute between the parties before it after giving reasonable opportunity to them consistent with the principles of fair play and natural justice. It is not a constitutional right of

any person to have the dispute adjudicated by means of a court only. Chapter VIA has been enacted to provide for an institutional mechanism, through the establishment of Permanent Lok Adalats for settlement of disputes concerning public utility service before the matter is brought to the court and in the event of failure to reach any settlement, empowering the Permanent Lok Adalat to adjudicate such dispute if it does not relate to any offence.”

9. It is also important to notice the changes made in the Legal Services Authorities Act, 1987 which were incorporated by amending Act of 2002. Section 22 C of the Legal Services Authorities Act, 1987 provides that before a dispute is raised in a Court, any party to a dispute may make an application to the permanent Lok Adalat for the settlement of dispute and after an application is made under sub-Section 1 of Section 22 C of the Act to the permanent Lok Adalat, no party to that application shall invoke jurisdiction of any Court for the same dispute. It is further provided that if the parties failed to reach at an agreement, the permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute. Section 22B(1) also makes it apparent that the permanent Lok Adalat has conciliatory as well as adjudicatory function. Section 22E makes every award of the permanent Lok Adalat under the Act made either on merits or in terms of settlement agreement, final and binding on all the parties and also on persons claiming under

them. It further provided that every award of the permanent Lok Adalat under the Act, shall be deemed to be a decree of Civil Court. The aforesaid provisions under the Legal Services Authorities Act, 1987 indicates the legislative intention to provide institutional mechanism for settlement of dispute. It has been made abundantly clear that in a case of failure to reach a settlement, the permanent Lok Adalat is empowered to adjudicate the dispute. This also cannot be disputed that Chapter VI-A has been incorporated in the Legal Services Authorities Act, 1987 with a view to provide accessible and speedy justice to the people. In view of the law laid down by the Hon'ble Supreme Court in "*Bar Council of India*" case, now there cannot be any dispute that the PLA court has the requisite power and jurisdiction to decide the matter on merits. In "*United India Insurance Company Limited Vs. Ajay Sinha*", reported in (2008) 7 SCC 454, the Hon'ble Supreme Court has held, "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." In "*Inter Globe Aviation Ltd. Vs. N. Satchidanand*," reported in (2011) 7 SCC 463, the Hon'ble Supreme Court has held thus,

24. "..... When the statement, additional statements, replies, etc. are filed in an application

filed before it, the Permanent Lok Adalat is required to conduct conciliation proceedings between the parties, taking into account, the circumstances of the dispute and assist the parties in their attempt to reach an amicable settlement of the dispute. If the parties fail to reach an agreement, the permanent Lok Adalat is required to decide the dispute. The Permanent Lok Akalats are authorised to deal with and decide only disputes relating to service rendered by notified public utility services provided the value does not exceed rupees ten lakhs and the dispute does not relate to a non-compoundable offence.”

10. From the materials brought on record, I find that there is no dispute in so far as, the date and place of incident which occurred on 31.12.2006 near Rampur Fauzi Dhaba and in so far as, the death of the deceased Raj Kumar Sinha, aged about 56 years in the said incident, are concerned. The First Information Report being Namkum P.S. Case No. 200 of 2006 under Sections 279, 337 and 304A I.P.C. was registered and the police submitted charge-sheet. The dead-body of the deceased Raj Kumar Sinha was sent for post-mortem examination. The applicants who are the legal heirs and dependents of the said Raj Kumar Sinha produced certified copies of the First Information Report and charge-sheet, post-mortem examination report, death certificate, insurance policy of tractor no. JH 01A-1933 and trailer no. JH 01A-1934. In the written statement, the Oriental Insurance Company Limited has taken a plea that the police jeep

in which the deceased was seating has not been identified and the drivers of the police jeep and the tractor have not been impleaded. The Insurance Company has taken a plea that it is a case of contributory negligence in which both the vehicles involved in the accident are responsible for the accident. However, I find that the Insurance Company has not denied that the tractor-cum-trailor involved in the incident was insured with it, at the relevant time. The provision under Section 140 of the M.V. Act is intended to provide interim compensation to the family of the victim. In the impugned award dated 05.05.2008, the Permanent Lok Adalat has made the award under Section 140 of the M.V. Act, subject to adjustment in final compensation under Section 166 of the M.V. Act, 1988. The learned counsel for the petitioner has submitted that in an incident in which a criminal case has been registered, the jurisdiction of the PLA court is ousted. This submission deserves no acceptance. In PLA Case No. 862 of 2007, the court was not seized with the criminal case rather, it has ordered interim compensation under Section 140 of the M.V. Act, 1988.

11. In view of the above facts and the law laid down by the Hon'ble Supreme Court, I find no merit in the writ petition and accordingly, it is dismissed.

(Shree Chandrashekhar, J.)