

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(1) FAO No. 1945 of 1995 (O&M)
Date of decision: December 9, 2015

National Insurance Co. Ltd.

...Appellant

Versus

Shri Ram Kumar and others

...Respondents

(2) FAO No. 2295 of 1995 (O&M)

Ram Kumar

...Appellant

Versus

Jagdish Kumar and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Neeraj Khanna, Advocate, for
for the insurance company in both the appeals.

None for the claimant.

K. KANNAN, J. (Oral)

1. This order shall dispose of the above titled appeals, one (FAO 1945 of 1995) preferred by the Insurance Company against casting liability on it and another (FAO 2295 of 1995) for enhancement of compensation by the claimant.
2. The issue of liability taken by the insurance company in FAO No. 1945 of 1995 was that the driver did not have a valid driving licence.

Beyond filing a report by their own investigator that the driver did not have a driving licence, no evidence was placed before the Tribunal to show that there had been attempt to secure the details from the DTO office by examining any person who would be competent to give such information. A mere uncorroborated report of an investigator could hardly be taken as sufficient for discharge of the onus which Section 149 of the Motor Vehicles Act places on the insurer to prove the breach of condition of the policy.

3. The liability cast on the insurer by the Tribunal cannot be faulted with and I will make no intervention in the appeal preferred by the insurance company. The appeal is dismissed.

4. The FAO 2295 of 1995 is for enhancement by the claimant. It is case of injury and I am unable to make appraisal in the absence of the counsel for the claimant. This appeal is dismissed in default for non-prosecution.

December 9, 2015
prem

(K.KANNAN)
JUDGE