

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

FAO No. 275 of 2000 (O&M)

Date of decision: October 1, 2015

Manjeet Singh

...Appellant

Versus

Satish 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. S.P. Khatri, Advocate,
for the appellant.

Ms. Shamsheer Kaur, Advocate,
for respondent No.6.

K. KANNAN, J. (Oral)

1. The appeal is against the award passed for ₹60,000/- for the injuries suffered by the claimant. The Tribunal assessed ₹40,000/- for the loss of amenities resulting by the disability assessed at 20% for a fracture of the left leg. The Court provided ₹20,000/- towards medical expenses and other incidental.

2. I will not find the assessment to be low, for, there is no other particular handicap shown other than the fracture. There was no warrant for any higher sum. However, while casting the liability, the Tribunal exonerated the insurance Company on the ground that the driver did not have a valid driving licence.

3. If the driver did not have the valid driving licence, it must only be taken as resulting in a situation of the owner-cum-driver being guilty of breach of condition of the policy and the insurer will have a right of recovery against the owner-cum-driver. The liability ought to have been cast on the insurer for the third party cannot be put to any hardship by the breach of condition of the policy. This point has been settled in National Insurance Vs. Swaran Singh (2004) 3 SCC 297.

4. The award is modified providing for a right of enforcement against the insurance company but granting the liberty to the insurer to apply for recovery of the amount suffered in the execution proceedings against the owner-cum-driver.

5. The appeal is allowed to the above extent.

October 1, 2015
prem

(K.KANNAN)
JUDGE