

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

**FAO No.1227 of 2012 (O&M)
Date of Decision: March 12, 2015**

The New India Assurance Company Ltd. Appellant

vs.

Rameshwar alias Ishwar and others Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Neeraj Khanna, Advocate for the appellant.

Mr. I.S. Pabla, Advocate for respondent Nos.2 to 4.

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

The present appeal has been filed by the Insurance Company against the Award dated 27.09.2011 passed by the Commissioner under the Workmen's Compensation Act, Circle Kurukshetra, vide which the compensation of Rs.52,906 was awarded to the applicant-respondent No.1. Out of this amount, ₹40,666/- were awarded towards compensation whereas ₹12,240/- were awarded towards interest. It was also directed that if the compensation amount was not paid within thirty days, respondent No.4 shall also be liable to pay further simple interest @ 12% per annum on the amount of compensation only from the date of the order till its realization.

Learned counsel for the appellant has argued that in this case the policy was for the agriculture purpose. As per the case of applicant-respondent No.1, he was employed as agricultural servant as well as driver of tractor No.HR-07L-8839 on the salary of Rs.4,200/- per month by Gulzari Lal-respondent No.2. On 16.01.2009, he had taken the tractor with Hadamba machine to the fields of Rajinder Pandit for threshing toria crop under the directions and supervision of respondent Nos.2 to 4, where an accident occurred.

Learned counsel for the Insurance Company has drawn the attention of this Court towards the statement of AW1-Rameshwar alias Ishwar (respondent No.1 herein), who admitted that he was threshing toria crop in the fields of Rajinder Pandit. However, he denied the suggestion as to how much rent was being paid.

It has also been argued that the admission shows that the rent was to be paid. The denial of the admission of rent shows that the tractor was being used for commercial purpose.

A further contention has been raised that respondent No.1 had admitted that he was not having any licence. However, it comes out that it was a comprehensive policy and at the time of accident, the tractor was not being plied.

Learned counsel for the Insurance Company has relied upon the submission of RW3 Smt. Purni Malhotra, who investigated

into the matter and stated that the tractor was being plied on rent. However, she had admitted that she had no evidence to prove that the tractor and thresher were operated on rent. The argument raised is not supported by the evidence. Thus, no fault can be found in the Award dated 27.09.2011 of the Commissioner under the Workmen's Compensation Act, Circle Kurukshetra. Therefore, the present appeal is devoid of merits. The same is accordingly dismissed.

March 12, 2015
sarita

(KULDIP SINGH)
JUDGE