

505.

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

Civil Revision No.1426 of 2006 (O&M)

Date of decision:21.01.2016

& FAO No.762 of 2006 (O&M)

National Insurance Company Limited

... Petitioner

versus

Satvir Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. R.N. Singal, Advocate,
for the appellant/petitioner.

Mr. Sunil Kumar Nehra, Advocate,
for Mr. Sanjeev Kodan, Advocate,
for respondent No.2.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The appeal by the Insurance Company in FAO No.762 of 2006 is on an issue of liability on the ground that the person that died, namely, a child, aged 2 years and the person that was injured were seated on a tractor and came by fatal injury and grievous injury when the tractor turned turtle. The Insurance Company had been made liable for ₹77,000/- with interest for both of the minor child

and ₹2,000/- for injury.

2. This court has had an occasion to dealt with same issue in the judgment in **Iffco Tokio General Insurance Company Limited Versus Ramesh Rani and others-2014(3) PLR 46** that Insurance Company cannot be made liable, for, a tractor is not constructed to carry any load other than equipment used for the purpose and that a person travelling on the tractor other than the driver ought to be regarded only as a gratuitous and unauthorized passenger to whom the benefits of insurance will not avail.

3. The award passed would still be required to be sustained at least for the limit provided under Section 140 of the Motor Vehicles Act by the only fact that the vehicle had been insured with the appellant-Insurance Company and the claim will require to be protected in terms of Section 140 of the Motor Vehicles Act in the manner it has been interpreted by the Supreme Court in **Eshwarappa @ Maheshwarappa and another Versus C. S. Gurushanthappa and another-2010(8) Scale 263** and, therefore, restrict the liability of the Insurance Company in the case of death for ₹50,000/- with interest and the balance will be recovered by the claimant against the owner and driver. If any portion of the amount has been already paid by the Insurance Company to the claimant, the recovery will be effected only against the owner and the driver and not against the claimant. The appeal in FAO No.762 of 2006 is

allowed to the above extent.

4. As regards the claim for injuries awarded at ₹2,000/-, which is the subject of Civil Revision No.1426 of 2006, it is too small an amount for interference. Civil Revision is dismissed.

(K.KANNAN)
JUDGE

21.01.2016
sanjeev