

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

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Date of decision-11.02.2016.

I. FAO No.5439 of 2002

The Oriental Insurance Co. Ltd.	..Appellant
Vs.	
Sunita Devi and others	..Respondents

II. FAO No.5440 of 2002

The Oriental Insurance Co. Ltd.	..Appellant
Vs.	
Shashi Sapra and others	..Respondents

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

Present: Mr. V. Ramswaroop, Advocate
for the appellant.

Mr. Parminder Singh, Advocate
for the respondents.

K.KANNAN, J(Oral)

Both the appeals are on the issue of liability for the death of the driver of the insured vehicle and for challenging the claim of compensation awarded to passenger of the insured vehicle. The driver and the passenger died in collision of their vehicle with the tractor. The Tribunal found both the vehicles to be responsible. The Tribunal found the driver himself to be responsible for the accident and provided for compensation under Section 140 of the Motor Vehicles Act on the ground of no fault and added liability of ₹10,000/- for funeral expenses and loss of estate. Insurance Company will be liable even for his own negligence since the driver was a paid driver and the policy cover even under the Motor Vehicles Act was bound to cover the risk for death and injury to an employee under Employees Compensation Act 1923. I cannot therefore, absolve the insurer of liability and dismiss the appeal filed in FAO No.5439 of 2002.

As regards the claim for compensation for a passenger, the Tribunal assessed a compensation of ₹13,72,000/-. A passenger in a public service vehicle is fully insured even if there was negligence on the part of the driver/injured. The insurer shall be liable to satisfy the entire claim arising out of the death of the passenger in the vehicle. The award therefore, is required to be confirmed. The appeal in filed in FAO No.5440 of 2002 is also dismissed.

(K.KANNAN)
JUDGE

February 11, 2016

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