

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 639 of 2007 (O&M)

Date of decision: January 7,2016

National Insurance Company Ltd.

.....Petitioner

VS.

Smt. Jaspreet Kaur and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE K.KANNAN

Present: Mr. Vinod Gupta, Advocate for  
the petitioner.

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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?

K.KANNAN,J (Oral)

1. The grievance of the insurer is that, while finding the owner and the driver of the bus as liable for the death of insured driver, it has not made a provision for recovery of the interim compensation paid under Section 140 of the Motor Vehicles Act. Through the interim dispensation, the amount of Rs. 50,000/- was said to have been split as payable by the owner of the bus and insurer of the vehicle which the deceased was driving. If there was not even a liability under Section 166 of the Motor Vehicles Act, the Tribunal while disposing of the appeal ought to have provided right to recovery against the owner and the insurer of the bus, who was ultimately made liable.

2. The learned counsel for the petitioner places reliance on the judgment in

**National Insurance Co. Ltd. Versus Jethu Ram and others (1999) (9) SCC 62,**

wherein it was held that no liability can be cast under Section 140 of the Act if there was no liability and 166 of the Act well. In a limited way, this will still apply, if the right of recovery is exercised against the owner and the insurer who were found liable for the claim arising out of accident.

3. The award already passed stands modified to provide for recovery of Rs. 25,000/- with interest at 6% against the owner and the insurer of the bus.

3. The revision is allowed to the above extent.

**JANUARY 07, 2016**

Rajeev

**(K.KANNAN)**

**JUDGE**