

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT  
CHANDIGARH

C.R. No.8104 of 2011 (O&M)

Date of Decision.20.01.2016

Shabir Ahmad (since deceased) through LRs

.....Petitioner

Vs.

M/s New India Assurance Company Limited and others

.....Respondents

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

Mr. Ravinder Arora, Advocate and  
Mr. Neeraj Khanna, Advocate  
for the insurance company.

**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?

-. -

**K. KANNAN J.(ORAL)**

**C.M. No.6583-CII of 2014**

The application for impleading the legal representatives of deceased-Shabir Ahmad is allowed subject to all just exceptions and the legal representatives are ordered to be brought on record.

Application is allowed.

**C.R. No.8104 of 2011**

1. The application to set aside the ex parte order brought at the instance of the person arrayed as owner of the vehicle was dismissed. The application had been filed with an application to condone the delay and hence, revision petition.
2. The counsel states that at the relevant time of the accident

on 23.08.2000, he was not the owner and he had already transferred the vehicle to one Sirajudin. The representative of the driver of the same vehicle which was involved in the accident had case before the Workmen's Compensation Commissioner and the Court had accepted that Sirajudin was the owner at the relevant time and has granted award against Sirajudin and the insurance company. Only before the Motor Accident Claims Tribunal, the representative of the cleaner had not impleaded the subsequent purchaser Sirajudin and it has resulted in an award to be passed entitling the insurance company to recover the amount awarded for violation of terms of policy.

3. Here is a case where there is a sure defence for a person to contend that at the relevant time he was not the owner and right of recovery which the insurance company was pressing forth must be directed towards the actual subsequent purchaser and not against him. The interest of the insurance company will not be defeated and it will proceed against the person who was the owner of the vehicle and found to be so in collateral proceedings before the Workmen's Compensation Commissioner.

4. For the indiscretion of the owner in remaining ex parte and causing further delay for the insurance company to effect the recoveries, I order the revision petition on payment of costs of ₹10,000/- to be paid or deposited before the Tribunal for the benefit of the insurance company within a period of two weeks. The interim order passed by the Tribunal is set aside. The Tribunal will make a suo motu impleadment of Sirajudin with the details of particulars given by the impleaded party and ensure that the case is taken up in the presence of

the person said to be purchaser from the present petitioner.

5. The impugned order is set aside the revision petition is allowed on the above terms.

(K. KANNAN)  
JUDGE

January 20, 2016  
Pankaj\*