

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

-.-

CR 8172 of 2016
Date of decision: 05.12.2016

United India Insurance

..... Petitioner

Versus

Kanchan and others

.....Respondent(s)

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Ms Jasleen Kaur Chandhok, Advocate
for the petitioner

-.-

Rekha Mittal, J. (Oral)

The present petition directs challenge against order dated 21.11.2016 (Annexure P5) passed by the Motor Accidents Claims Tribunal, Mohali whereby application filed under Section 170 of the Motor Vehicles Act, 1988 (in short, 'the Act') has been dismissed with the observation that as respondents No.1 and 2 owner and driver of the alleged offending vehicle are contesting the claim petition, no ground is made to allow the insurance company to take up all the defences which are otherwise available to respondents No. 1 and 2.

Keeping in view the observations made by Hon'ble the Supreme Court of India in **United India Insurance Company Ltd. v. Shila Datta and others, (2011) 10 SCC 509** considered by this Court in **United India Insurance Company Limited v. Tini Rani and others** (CR 4484 of 2010, decided on 03.01.2012), as the insurance company has been

impleaded as a respondent by the claimants themselves, the insurance company is competent to contest the claim application on all the grounds available to the driver and owner of the offending vehicle.

In this view of the matter, the present petition is disposed of with the observations that even despite dismissal of the application under Section 170 of the Act, the insurer is entitled to contest the application for compensation on all the grounds available to the driver and owner of the offending vehicle.

Before parting with the order, it is clarified that the instant petition has been disposed of without notice to the respondents in order to avoid inconvenience and incurring expenditure by them. However, if the respondents have any grievance to express, they shall be at liberty to file an appropriate application before this Court.

(Rekha Mittal)
Judge

05.12.2016
mohan bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No