

512.

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

FAO No.2256 of 2006 (O&M)

Date of decision: 02.02.2016

United India Insurance Company Limited ... Appellant

versus

Sunita Rani and others Respondents

II. FAO No.1157 of 2007 (O&M)

Sunita Rani and others ... Appellants

versus

Kala and others Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Neeraj Khanna, Advocate,
for the appellant in FAO No.2256 of 2006 and
for respondent No.3 in FAO No.1157 of 2007.

None for others.

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)

I. FAO No.2256 of 2006

1. The appeal by the Insurance Company is on issue of negligence and on a plea that the FIR lodged against the driver was cancelled. It was the contention that the bus itself had not been taken possession of by the police. The Tribunal actually considered

the case by reference to the fact that one Rajinder Kumar-PW2 was standing alongside the deceased Gulshan Kumar and the accident happened when both the deceased and the witness PW2 were alighting the bus and since the driver started the vehicle with a jerk and without minding that all passengers had got into the bus, Gulshan Kumar fell down from the bus and came by the fatal injuries. The involvement of the vehicle itself was not in doubt, for, the FIR showed the version to be consistent with the version given by the witness in court. I believe that this evidence was sufficient to find the driver responsible and make liable the Insurance Company as well. The fact that the driver was not prosecuted in such a situation by the criminal court cannot be any mitigating circumstance for the Insurance Company to plead for any exoneration of liability.

2. I sustain the award and dismiss the appeal.

II. FAO No.1157 of 2007

3. The appeal is for enhancement of compensation. There is no representation for the appellants.

4. Dismissed for default for non-prosecution.

(K.KANNAN)
JUDGE

02.02.2016
sanjeev