IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5212 of 2006 (O&M)
Date of decision: January 7,2016

National Insurance Company Ltd.

.... Appellant

VS.

Balwinder Kaur and others

.........Respondents

CORAM: HON'BLE MR.JUSTICE K.KANNAN

Present: Mr. L.M.Suri, Sr. Advocate with
Mr. Neeraj Khanna, Advocate
for the appellant.

None for the respondents.

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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 appeal by the Insurance Company where it has obtained the evidence that the driver did not have a driving licence at all. The point made by the learned Senior counsel is that it was not a case of licence having expired but it a case where the driver did not have a driving licence at all. To my mind, it cannot make a difference that the driver did not have a driving licence at all or he had a licence which had expired. All this means in legal parlence is that he did not have an effective authority to drive a vehicle which constitutes a breach of terms of policy and valid defence for the insurer to deny the right of indemnity to the insured. However, as far as a claim by a third party is concerned, the liability is

indefeasible in terms of Section 149 (4) Proviso and Section 149 (5) the Motor Vehicles Act. The law to this effect has also been laid down in judgment of the Supreme Court in **National Insurance Co. vs. Swaran Singh (2004) 3 SCC 297.**

2. The Tribunal has already provided for right of recovery for the insurance for violation of terms of the policy. There is no error in the judgment for any interference.

3. The appeal is dismissed.

JANUARY 07, 2016 **(K.KANNAN)**
Rajeev **JUDGE**