982.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.286 of 2008 (O&M)
Date of decision: 19.02.2016

The Oriental Insurance Company Limited ... Appellant

versus

Idrish and others .... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Mayank Mathur, Advocate, for the appellant.

Mr. Ashish Gupta, Advocate, for the respondent No.1.

K.Kannan, J. *(Oral)*

1. The appeal is by the Insurance Company. The accident took place on 29.05.2004 when the claimant who had borrowed the vehicle from the last owner suffered injuries in a collision with yet another vehicle driven by one Satpat Mohd. who is cited as 7^{th} respondent. The Tribunal awarded the compensation against the insurer of the vehicle which the claimant was driving. He made reference to the fact that the policy was comprehensive and that there shall be therefore a liability for the insurer.

2. A borrower of a vehicle from the owner does not make the insurer himself liable under any circumstance unless he is himself insured for personal accident in an independent policy or he

is a paid driver who is entitled to compulsory coverage under Section 147 of the Motor Vehicles Act. The Insurance Company cannot be made liable particularly in the light of law laid down by the Supreme Court in ***<u>Ningamma and another Versus United India Insurance Company Limited-2009 AIR (SC) 3056</u>***. The liability cast on the insurer is set aside and the appeal is allowed to the above extent.

3. The Insurance Company shall apply for restitution if any amount has been paid by it.

(K.KANNAN)
JUDGE

19.02.2016
sanjeev