

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

**FAO No. 2699 of 2010 (O&M)  
Date of decision: 23.02.2016**

National Insurance Co. Ltd.

... Appellant

versus

Suman Devi and others

.... Respondents

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

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Present: Mr. Nitin Grover, Advocate for the appellant.

Mr. J.P. Sharma, Advocate for respondent Nos. 1 to 6.

**K.Kannan, J. (ORAL)**

The appeal by the insurer is on the point of liability to contend that the driver of the motorcycle had borrowed it from the 7<sup>th</sup> respondent and dashed against the *kikkar* tree and ultimately succumbed to the injuries. The claimants could have no cause of action against the insurer when the policy of insurance provided no cover for a borrower of a vehicle. Admittedly, he was not also a paid labour at the time of accident under the insured to sustain the claim under the Employees Compensation Act of 1923. The liability cast on the insurer is erroneous and against the law laid down in Ningamma and another Vs. United India Insurance Co. Ltd., 2009 AIR (SC) 3056. The award is set aside but I have still make the insurer liable under Section 140 with interest at the rate awarded already and is provided in judgment in Eshwarappa @ Maheshwarappa and another Vs. C.S. Gurushanthappa and another, 2010 AIR (SC) 2907.

The award is modified and the appeal by the insurer is allowed to the above extent.

**(K.KANNAN)  
JUDGE**

23.02.2016

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