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

FAO No.4713 of 2010 (O&M)

Date of decision:13.01.2016

The Tata AIG General Insurance Company Limited ... Appellant

versus

Krishna Devi and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Ms. Vandana Malhotra, Advocate,
for the appellant.

Mr. R.C. Gupta, Advocate,
for respondents 1 to 3.

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)

1. The point raised by the insurer in the case is that the borrower of a vehicle came by fatal injuries in a case where even under the package policy, there was no provision for making the insurer liable for a driver of motorcycle that came to harm by the accident. The decision in **Ningamma and another Versus United India Insurance Company Limited-2009 AIR (SC) 3056** governs the issue and there is no scope for making the insurer liable any more than statutory minimum prescribed under Section 140 of the

Motor Vehicles Act. I restrict the liability to ₹ 50,000/- with interest as awarded by the Tribunal and making the insurer liable for the same.

2. The point urged by the learned counsel for the insurer is that the rider of the motorcycle did not have a licence and, therefore, the insurer must be allowed the benefit of recovery from the owner. When we are considering a statutory minimum and with no definite proof available of whether the owner was guilty of violation of terms of the policy by voluntary entrustment knowing that the driver of the vehicle did not have a valid driving licence, I will provide for no such relief.

3. The appeal is allowed to the above extent.

4. The entire amount is reported to have been deposited before the Tribunal. The amount in excess of what the claimants have been permitted shall be refunded to the insurer. The amount of ₹25,000/- deposited before this court is also directed to be withdrawn by the insurer.

(K.KANNAN)
JUDGE

13.01.2016
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