

823.

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

FAO No.4925 of 2011 (O&M)

Date of decision:08.02.2016

IFFCO TOKIO General Insurance Company Limited ... Appellant

versus

Anil Kumar and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Neeraj Khanna, Advocate,
for Mr. Ravinder Arora, Advocate,
for the appellant.

None for the respondents.

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 appeal by the Insurance Company is on an issue of liability. The owner's brother drove the motorcycle, fell down and suffered injuries while driving. The Insurance Company has been made liable on a reasoning adopted by the Tribunal that the extra premium had been paid to cover the personal risk of the owner. I hold that the personal accident cover is personal to the owner and cannot be availed by anyone else such as a borrower of that vehicle.

The award passed making the insurer liable is set aside

2. The liability of the insurer however could still be anchored to the insurer on no fault under Section 140 of the Motor Vehicles Act and since the court has already found that there has been a permanent disability to the tune of 10%, I will allow for the maximum compensation of ₹25,000/- as payable for permanent disability under Section 140 of the Motor Vehicles Act. This will also attract interest at the rate already provided i.e. 7.5%.

3. The award already passed is modified and the appeal is allowed in part to the above extent.

4. The amount of ₹25,000/- deposited to the credit of the case is ordered to be transmitted to the Tribunal in part satisfaction of the claim made by the claimants. If the whole amount has been paid, the appellant will apply for restitution of the amount deposited after transmission to the court below and after assessment of how much amount the claimants has recovered, the Tribunal will pass appropriate directions for disbursal of the amount that is now ordered to be transmitted.

(K.KANNAN)
JUDGE

08.02.2016
sanjeev