

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 1804 of 2012 (O&M)
Date of Decision: March 31, 2016

Vidya Devi

...Appellant

Versus

Veena and others

...Respondents

FAO No. 2853 of 2013 (O&M)

Veena and others

...Appellants

Versus

Deepak and others

...Respondents

CORAM: HON'BLE MR. JUSTICE K.KANNAN

Present: Mr. Jagjit Gill, Advocate,
for the appellant in FAO No. 1804 of 2012.

None for the appellants in FAO No. 2853 of 2013.

Mr. G.D. Gupta, Advocate,
for the Insurance Company.

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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)

FAO No. 1804 of 2012

- 1) The appeals are at the instance of the owner and the

claimants, respectively, on issue of liability and quantum.

2) The Insurance Company had been granted the recovery rights on a finding by the Tribunal that the vehicle had been used in contravention of the terms and the policy for hire and reward and consequently the owner shall not be entitled to the benefit of indemnity. The terms of the policy made reference to the fact that it was to be used for agricultural purpose and limit of liability prescribed in the policy prohibited the use of the vehicle for hire and reward. It is one of the permissible defences under Section 149 (2)(i)(a) of the Motor Vehicles Act (for short 'the Act'), and the Tribunal was, therefore, looking for evidence of proof of such violation. It was brought through the version of RW-2, Sashi Bhushan, who claimed that he had hired the tractor and trailer for transportation of wheat from the FCI Godown to Railway wagons at Railway Station. The Tribunal was, therefore, excluding the right of indemnity to the owner. I find no error in approach for modification.

3) FAO No. 1804 of 2012 is, therefore, dismissed.

FAO No. 2853 of 2013

4) The claim has been filed under Section 163-A of the Act and the Tribunal has provided for the compensation in the manner provided under Schedule II. The challenge in appeal is

the higher amounts for compensation for loss of consortium, funeral expenses and loss of estate must be provided in the light on decision in **Rajesh and others v. Rajbir Singh and others** 2013 (9) SCC 54.

5) The said decision relates to claim under Section 166 of the Act cannot be invoked for claim under Section 163-A of the Act. I find no ground for intervention, even in regard to quantum.

6) FAO No. 2853 of 2013 is also dismissed.

March 31, 2016

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**(K.KANNAN)
JUDGE**