

208.

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

FAO No.2233 of 2012 (O&M)

Date of decision:29.02.2016

Reliance General Insurance Company Limited ... Appellant

versus

Sakinder Kaur and others Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

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Present: Ms. Kaavya Jariyal, Advocate,
for Mr. Tejender K. Joshi, Advocate,
for the appellant.

Mr. Kuldeep Tiwari, Advocate,
for respondents 1 to 4.

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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 is by the insurer on a plea that the insured vehicle had been falsely implicated. A FIR that was registered a day after the accident merely referred to the involvement of an unknown vehicle. The author of FIR, who was reported to have taken the deceased to the hospital, was not examined. One PW4 claimed to be an eyewitness and he admitted in the cross-examination that he did not stop by at the site of the accident even though he witnessed it.

He admitted that there was darkness at the time of the accident. The attempt in the cross-examination was to elicit an information that it was unlikely that he could have been an eyewitness. The Tribunal, however, accepted the evidence of PW4, took note of the criminal prosecution and granted the award.

2. The Insurance Company reiterates its objection taken before the Tribunal. Admittedly, the driver against whom imputation was made did not even come into the witness-stand to deny the accident. If there was no case of collusion between the claimants and the insured, the non-examination of the driver or the owner to explain the imputation as made would have assumed enormous significance.

3. If the Tribunal has taken the view that the involvement of the vehicle had been proved by reference to PW4's evidence, I will let the matter rest there, more particularly for reason that the non-examination of the driver was material to assess the alleged non-involvement of the vehicle and in the absence of such evidence, adverse inference was bound to be drawn. I maintain the award and dismiss the appeal.

(K.KANNAN)
JUDGE

29.02.2016
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