

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

FAO No. 2717 of 2012 (O&M)

Date of Decision: February 9, 2016

HDFDC Ergo General Insurance Co. Ltd.

...Appellant

Versus

Smt. Nirmala and others

...Respondents

ORAM:- HON'BLE MR. JUSTICE K. KANNAN

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

K. KANNAN, J. (Oral)

1. The insurance company denied the fact of the accident in a situation where the driver of the vehicle was not even examined. On the side of the claimants, an investigating officer was examined, who stated that his own investigation revealed the involvement of the tractor, which he found in a broken condition and parked at kacha berm of the road. Learned counsel for the appellant wants to argue that if the vehicle remained parked at the time when the FIR was recorded, the registration number must have been given. On the other hand, the FIR merely recorded the fact that the accident involving the death of motor cyclist had taken place by a collision with the unknown vehicle. According to her, only because the vehicle was found in the vicinity in a broken down condition, a false implication of the owner of the said vehicle and insurer had been made.

2. I discard this argument for the only reason that if that was the truth, nothing prevented the insurer to examine the driver of the vehicle to explain that the vehicle had broken down and it was parked at the kacha

berm of the road. There is no reason to vary or modify the finding already recorded by the Tribunal.

3. The appeal is dismissed.

February 9, 2016
prem

(K.KANNAN)
JUDGE