

966.

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

FAO No.4973 of 2012 (O&M)

Date of decision:17.03.2016

Reliance General Insurance Company Limited ... Appellant

versus

Darshan and others Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Man Mohan, Advocate,
for Mr. Suman Jain, Advocate,
for the appellant.

Mr. J.S. Hooda, Advocate,
for respondents 1 to 3 and 5.

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 Insurance Company is in appeal against the award challenging the involvement of the insured's vehicle. On the same date of accident, a FIR was lodged by the brother of the deceased, who was said to be travelling in a motorcycle along with deceased stating that a black 'Xylo' car bearing registration No.DL-4C-NB-3754 was involved in the accident. The insured joined on issues at the trial to state that the vehicle with the particular registration

number was Scorpio white colour and the owner of the car was actually not in India at that time. The passport of the owner was filed on behalf of the owner showing that the owner was not within the country and he had no driver. The claimants themselves had not given the name of the driver in the petition and the police investigation did not also reveal the identity of the driver. The police had closed the case as not traceable.

2. It is too difficult to believe that a person, who sees an accident, was so disoriented as to name the colour of the car as black when it was white. The person, who can remember such a complex registration number as DL-4C-NB-3754, could not remember the colour is unusual. It is also a pity that police investigation could not reveal anything significant. The Tribunal, however, was prepared to believe that the eyewitness must have made mistake though he was not prepared to say even at the time of evidence that there was any mistake. He reiterated even at the trial that the car was only black and that it was Xylo. If there was not at least some grain of truth in the case, a particular vehicle number cannot be simply out of blue. If the Tribunal was prepared to therefore put the discrepancy of colour of the car under the carpet and still granted compensation against the Insurance Company on the basis of registration number, I will let the decision pass for the only reason that the amount awarded is a modest sum of ₹6,45,000/-

for a person who was said to be 38 years of age as per the MLR but stated to be 20 years in postmortem certificate. He had 2 children and widow. Widow stated herself to be 20 years of age which is most artificial considering she was having two children. If the compensation were to be worked out on the scales which are now being made with the conventional heads for loss of love and affection, the assessment made is not high for a reappraisal even if the correct age were to be 38 years and multiplier were to be taken as 15.

3. I decline to make intervention and uphold the award.

The appeal is dismissed.

(K.KANNAN)
JUDGE

17.03.2016
sanjeev