207.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.681 of 2012 (O&M)
Date of decision: 19.02.2016

Sandeep Kumar ... Appellant

versus

Vikas Baniwal and another .... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Parminder Singh, Advocate,
for the appellant.

Mr. Vishal Satija, Advocate,
for Mr. Rahul Jaswal, Advocate,
for respondent No.1.

Mr. M.B. Jain, Advocate,
for respondent No.2.

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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)*

CM No.3283-CII of 2012

For the reasons stated in the application, delay of 184 days in filing the appeal is condoned.

Application stands disposed of.

FAO No.681 of 2012

1. The claimant is in appeal against the injuries suffered in

a motor accident when he, while driving the vehicle, dashed against a small bridge, fell down and suffered injuries that resulted in amputation of his leg. He had incurred expenses to the tune of about ₹10 lakhs. The claim was made under Section 163-A of the Motor Vehicles Act.

2. There was a package policy but this cannot help to sustain a claim against the insurer, for, the package policy makes possible a claim brought at the instance of a third party or to the person, who had a pillion rider or for damage to his own vehicle. If Section 163-A of the Motor Vehicles Act will also not require a proof of negligence of yet another party, if another party was involved in the accident for causing the accident. A person, who borrows a vehicle from the owner comes by harm, merely steps into the shoes of the owner and allows himself any benefit of claim against the insurer in the light of law laid down by the Supreme Court in ***Ningamma and another Versus United India Insurance Company Limited-2009 AIR (SC) 3056***.

3. Since the accident has resulted in a permanent disability and privation of an organ, the claimant would be entitled to a minimum amount of ₹25,000/- against the insurer in the manner contemplated by the decision in ***Eshwarappa @ Maheshwarappa and another Versus C. S. Gurushanthappa and another-2010(8) Scale 263***. The award of dismissal is modified, making the insurer

liable only for ₹25,000/- with interest at 9% from the date of petition till date of payment.

4. The appeal is allowed in part only to the above extent.

(K.KANNAN)
JUDGE

19.02.2016
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