THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2324 of 2013 (O&M)
Date of decision: February 15, 2016

United India Insurance Company Limited.

...Appellant

Versus

Bimla Devi and others

...Respondents

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

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?**

Present: Mr. DK Dogra, Advocate,
for the appellant.

Mr. RK Arya, Advocate,
for respondents No. 1 and 2.

K. KANNAN, J. (Oral)

1. The appeal by the insurance company is on a plea that the death was of a passenger seated on the mudguard of a tractor. A mudguard is to guard splattering mud on the driver and not to carry a passenger. There is simply no insurance cover available for the insurer to be made liable. The liability cannot be any more than under Section 140 of the Motor Vehicle Act under 'No Fault' in the manner contemplated by the Supreme Court in <u>Eshwarappa @ Maheshwarappa and another V. C.S. Gurushanthappa and another 2010 (5) R.A.J. 31</u>. This point has been brought on in a judgment of this Court in <u>National Insurance Company Limited Versus Chandro and others 2011 (2) R.C.R. (Civil) 135</u>.

2. The order already passed making the insurer liable for

compensation claimed is modified and liability of the insurance company is restricted to Rs. 50,000/- with interest awarded. The rest of the amount shall be claimed by the claimants against the owner and the driver and not against the insurer. If any amount is already paid in excess of Rs. 50,000/- with interest, the insurer shall recover the same not against the claimants but against the owner and the driver.

3. The appeal is allowed but subject to the observations made above.

February 15, 2016 **(K.KANNAN)**
prem **JUDGE**