

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1856 of 2014 (O&M)

Date of Decision.12.04.2016

Shri Ram General Insurance Company Ltd.

.....Appellant

Vs.

Prerna Bhatnagar and others

.....Respondents

Present: Ms. Kaavya Jariyal, Advocate
for the appellant.

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?

-. -

K. KANNAN J. (ORAL)

C.M. No.6444-CII of 2014

For the reasons stated in the application, delay of 2 days in
refiling the appeal is condoned.

Application is allowed.

C.M. No.6445-CII of 2014

For the reasons stated in the application, delay of 2 days in
filing the appeal is condoned.

Application is allowed.

FAO No.1856 of 2014 (O&M)

1. The appeal is by the insurance company on plea that even in
petition under Section 163-A of the Motor Vehicles Act, the issue of
contributory negligence is relevant as laid down by the Supreme Court
National Insurance Company Limited 2012(1) RCR (Civil) 205. The

correctness of this judgment itself has been doubted in yet another case

by the Supreme Court in United India Insurance Company Vs. Sunil Kumar 2013(13) SCALE 311 and made subject of reference to the larger bench. Even without looking into the issue of law, it is a simple case of the deceased driving a motor cycle dashing against a stationary vehicle. There were two witnesses who had spoken about the nature of accident but the contention by the insurer is that the eye witness account cannot be believed. I would observe that the total compensation awarded itself is only ₹3,64,000/- and the insurer has also been given a right of recovery against the owner and driver. This is not a case where the issue of whether the contributory negligence could be taken in petition under Section 163-A must be tested before this Court.

2. The award already passed is maintained and the appeal is dismissed.

(K. KANNAN)
JUDGE

April 12, 2016
Pankaj*