

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2368 of 2000 (O&M)
Date of Decision: 27.10.2017

National Insurance Company Limited

... Appellant

Versus

Shiv Raj Singh Yadav and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Aseem Aggarwal, Advocate,
for the appellant.

Mr. Rakesh Bakshi, Advocate,
for respondent No.3.

RAJIV NARAIN RAINA, J.

1. When this matter came up for hearing the day before yesterday i.e. on October 25, 2017 Mr. Aseem Aggarwal, learned counsel had brought to the notice of this Court the judgment delivered in FAO No.1980 of 1999, *Sunil Kumar v. Sh. Mann Singh and others* decided on July 24, 2014 and in connected FAO No.1653 of 2000, *National Insurance Company Limited v. Shri Sunil Kumar and others* decided by common judgment in which the view expressed is as follows:-

“5. Any amount that has been paid by the Insurance Company to the claimants shall not be pressed for recovery in the view that I have taken that only the additional amount now assessed shall be recoverable from the driver and owner. The additional liability as assessed shall be only on the owner and driver of the vehicle. The award stands

modified and the appeal in FAO No.1980 of 1999 is allowed to the above extent. FAO No.1653 of 2000 is allowed casting the liability additionally on the owner and driver and exonerating the Insurance Company.”

2. It may be noticed that both the appeals arise out of the same accident, for award of compensation, one in a death case while the other in a case of injuries suffered.

3. Learned counsel for the other side has no argument to raise to show to the contrary. It is only the additional amount assessed by this Court that can be made recoverable from the driver and owner, meaning thereby, the Insurance Company would have to discharge the burden of the original award only. This was the only point involved in the present and the other appeals noticed above.

4. The appeal is disposed of in the above terms and the impugned award accordingly modified.

(RAJIV NARAIN RAINA)
JUDGE

27.10.2017
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Whether speaking/reasoned *Yes*

Whether reportable *No*