

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

***CWP No.15872 of 2014
Date of Decision: 19.12.2017***

The Oriental Insurance Company Limited

. . . . Petitioner

Vs.

Narinder Singh and another

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.Ashwani Talwar, Advocate,
for the petitioner.

Mr.Arun Kumar Bakshi, Advocate,
for respondent No.1.

Ms.Vandana Malhotra, Advocate,
for respondent No.2.

RAKESH KUMAR JAIN, J.

The petitioner, insurance company, is aggrieved against the award of the Ombudsman dated 5.12.2013.

In brief, the truck bearing No.PB-08-AX-9899, owned by Narinder Singh (respondent No.1), was insured with the petitioner for the period from 26.7.2010 to 25.7.2011. On 21.6.2011, while the said truck was on its way to Srinagar, carrying the load of wheat from Bholath, Jammu Depot of Food Corporation of India [FCI], fell in a gorge and suffered extensive damage. One FIR No.108 dated 21.6.2011 was thus registered at Police station, Ramban, on the date of occurrence dated 21.6.2011, under Sections 279/337 of the IPC.

According to the petitioner, the truck was being driven by Harpreet Singh, whose name has been recorded in the challan form issued by

the District Manager, FCI and even by respondent No.1 when he put up the claim for the loss caused to the vehicle. However, in the challan, presented by the police in FIR No.108 dated 21.6.2011, respondent No.1 got his name included as an accused in order to claim the insurance whereas the driver Harpreet Singh s/o Balkar Singh had suffered injuries in the said accident on the same day and no injury was suffered at all by respondent No.1 though the truck was a total loss as it was extensively damaged. The petitioner had asked respondent No.1 to provide the driving license of Harpreet Singh s/o Balkar Singh but despite reminders the same was not provided rather respondent No.1 managed to get his name included in the police record as the driver of the truck at the time of accident. It is thus submitted that the story concocted by respondent No.1 is only to get the insurance claim from the petitioner and the order passed by the Ombudsman that the record of the police has to be relied upon is patently erroneous.

On the other hand, learned counsel for respondent No.1 has submitted that the said truck was driven by him at the time of accident and has referred to the challan presented by the police in which he has been named as an accused and has relied upon a decision of this Court rendered in the case of *“United India Insurance Company Ltd. Vs. Om Pati and others”* 2017(1) RCR (Civil) 912 to contend that the report submitted by the investigator cannot override the report of the police.

I have heard learned counsel for the parties and perused the record.

There is an interesting feature in this case which has not been noticed by the Ombudsman and i.e. the injury caused to the driver. There is

no denial to the fact that Harpreet Singh s/o Balkar Singh had suffered injuries on the same day in the accident whereas no injury was suffered at all by respondent No.1. The photographs appended with the petition as Annexure P-9 are of the mangled remains of the insured truck which tells another story. Had respondent No.1 been driving the said truck, which had fallen in a deep gorge of about 500/600 ft, then he would have also suffered serious injuries but the very fact that he did not suffer any injury and Harpreet Singh s/o Balkar Singh had suffered injuries and was treated in the hospital, knocks the bottom of the case set up by respondent No.1, who has got his name involved in the criminal case in order to get the insurance claim. Even otherwise also, the driver named Harpreet Singh s/o Balkar Singh has been clearly mentioned in the challan form issued by the District Manager, FCI and even by respondent No.1 in the intimation letter dated 22.6.2001 which are sufficient to prove that the vehicle was driven by Harpreet Singh s/o Balkar Singh and not by respondent No.1 at the time when it fell in the gorge. The judgment relied upon by respondent No.1, rendered in the case of *United India Insurance Company Ltd. (Supra)*, is not applicable as it is not a case where the Court is relying upon the report of the investigator over and above of the report of the Police rather this Court has independently found the falsehood in the story concocted by respondent No.1. Thus, there is a merit in the present petition and hence the same is hereby allowed and the impugned order passed by the Ombudsman is set aside.

19.12.2017

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No