

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

1. **FAO No.1585 of 1997 (O & M)**
Date of Decision:-01.05.2018

The United India Insurance Co. Ltd.

...Appellant

Versus

Smt. Sukhi and others

...Respondents

2. **FAO No.2034 of 1997 (O & M)**

M/s Syal Transporters

...Appellant

Versus

United India Insurance Company Limited and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AJAY TEWARI

Present:- Mr. Sanjiv Pabbi, Advocate
for the appellant in FAO No.1585 of 1997
and for respondent No.1 in FAO No.2034 of 1997.

Mr. Vikrant Attri, Advocate for
Mr. C.S. Pasricha, Advocate
for respondent No.5 in FAO No.1585 of 1997
and for the appellant in FAO No.2034 of 1997.

FAO No.1585 of 1997 qua respondents No.1 to 4 dismissed
vide order dated 16.3.1998.

FAO No.2034 of 1997 qua respondents No.2 to 5 dismissed
vide order dated 16.3.1998.

AJAY TEWARI J.(Oral)

These two appeals have been filed against the Award dated 30.6.1997 passed by the Commissioner for Workmen's Compensation, U.T. Chandigarh awarding compensation for the death of Sitar Mohammad. Since only limited cross issues have been raised in both these appeals (one filed by the Insurance Company and other by the employer) further detailed reference to the facts may not be necessary.

In this case the Commissioner apportioned the penalty @ 50% between the insurance company and the employer on the ground that immediately after the accident, the claimant had sent notice under registered cover to both of them but none had responded. In **Ved Prakash Garg vs. Premi Devi 1997(4) RCR (Civil) 309** the Hon'ble Supreme Court has categorically held that the liability to pay the penalty can only be fastened only on the employer and the insurance company cannot be saddled with such liability. Counsel for the employer is not in a position to cite any contrary judgment.

In such circumstances the appeal filed by the insurance company bearing FAO No.1585 of 1997 is allowed and it is held that 50% liability which was fixed on the insurance company is set aside and it would be the employer/respondent No.2 who is liable to pay the same. The appeal

filed by the employer i.e. FAO No.2034 of 1997 is hereby dismissed.

May 01, 2018	(AJAY TEWARI)
Vijay Asija	JUDGE
Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No