

(2011) 02 P&H CK 0273

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO No. 638 of 2010

Gurdeep Singh

APPELLANT

Vs

National Insurance Company
and Others

RESPONDENT

Date of Decision: Feb. 17, 2011

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Judgement

K. Kannan, J.

The appeal is at the instance of the owner challenging the liability cast on him and exonerating the Insurance Company. The petition had been filed on an express averment that the deceased Ladeep Mohd., along with others were doing labour work in GTL Company and after lodging equipments and telephone towers in the insured's truck started from the Company at Mohali to Bathinda. The accident had taken place resulting in death of all the persons who had been travelling in the truck.

2. The Insurance Company had made the general denial of the allegations that the deceased was doing labour work in GTL Company and that there were telephone equipments in the insured's truck. When the petition was filed on an express averment as regards the status and made how they were there in the truck and oral evidence is also given as regards the presence of the equipments in the truck, then no further requirement should be expected of a Tribunal and a general denial by an insurer ought not to have been given precedence to express contentions made on behalf of the claimant. The Tribunal treated the deceased as a gratuitous passenger by the only fact that no body from the GPL Company had been examined to say that he had been employed under them. would find this ultimately a matter of inference on the facts disclosed and I would find the averments in the petition and the evidence of the witness as sufficient to establish the status as loadman and the fact that the truck had been loaded with the equipments and that further deceased was

travelling along with same. Therefore could be treated only to be a representative of the owner who was transporting the goods. The representatives of the deceased had a full right to enforce the claim against the Insurance Company. The exoneration of the liability of the Insurance Company is vacated and the Insurance Company is directed to make the payment in satisfaction of the claim awarded by the Tribunal. The award stands modified to the above extent and the appeal is allowed. The amount of Rs. 25,000/-which has been deposited by the Appellant shall be permitted to be withdrawn by the Appellant, if it is still available. If the amount has been withdrawn by the claimants already, the Appellant shall be at liberty to seek for recovery from the Insurance Company.