

(2012) 02 P&H CK 0317

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 6696 of 2010

Reliance General Insurance
Company Limited

APPELLANT

Vs

Abhey Singh and Others

RESPONDENT

Date of Decision: Feb. 2, 2012

Acts Referred:

- Motor Vehicles Act, 1988 - Section 149(2), 170

Citation: (2012) 2 ILR (P&H) 868

Hon'ble Judges: Nawab Singh, J

Bench: Single Bench

Advocate: Suman Jain, for the Appellant; Jai Singh Yadav, Advocate, for Respondent Nos. 1 and 2 and R.D. Yadav Singh, Advocate, for the Respondent

Judgement

Nawab Singh, J.

This insurer's revision is directed against the order dated 2nd March, 2010 passed by the Motor Accident Claims Tribunal (for short "the Tribunal"), Rewari. For ready reference the order is reproduced as under:--

Separate replies on behalf of petitioner and respondents No. 1 and 2 have been filed to the application of respondent No. 2 insurance company u/s 170 of MW Act. Learned counsel for the parties heard on the aforesaid application. Since nothing has been shown on the report that petitioner is colluding in any manner with respondents No. 1 and 2. Therefore, insurance company cannot be permitted to contest the petition on the grounds available respondents No. 1 and 2. Accordingly, the aforesaid application of the insurance company is hereby dismissed.

Respondent No. 1 namely Ashok is present and examined as RW 1 in the evidence of respondents No. 1 and 2. Learned counsel for respondents No. 1 and 2 closed the evidence on behalf of respondents No. 1 and 2. Now to come up on 5th March, 2010 for the evidence of respondent No. 3 insurance company at own responsibility.

The solitary submission of learned counsel for the insurance company is that insurance company should be allowed to cross-examine Sushila Devi (PW-2), Karambir alias Dillu (PW-3) and Kapil Devi (PW-5) claimant and eye witnesses respectively. To support the contention, reliance has been placed on [United India Insurance Company Ltd. Vs. Shila Datta and Others](#), wherein Hon''ble Supreme Court observed in paragraph No. 14 as under:--

14. When as insurer is impleaded as a party-respondent to the claim petition, as contrasted from merely being a noticee u/s 149(2) of the Act, its rights are significantly different. If the insurer is only a noticee, it can only raise such of those grounds as are permissible in law u/s 149(2). But if he is a party-respondent, it can raise, not only those grounds which are available u/s 149(2) but also all other grounds that are available to a person against whom a claim is made. It, therefore, follows that if a claimant impleads the insurer as a party-respondent, for whatever reason, then as such respondent, the insurer will be entitled to urge all contentions and grounds which may be available to it.

2. In view of the law enunciated in the aforesaid authority, there should not be any impediment in allowing the insurance company to contest the claim application on any of the grounds available to it provided insurance company is impleaded as party-respondent which in this case has been done.

3. In view of above, order under challenge is set-aside. Consequently, the insurance company is allowed to cross-examine the aforesaid witnesses.

4. Learned counsel for the claimants has urged that all endeavors shall be made to produce the witness on the date fixed before the Tribunal. The revision is disposed of accordingly.