

(2014) 07 P&H CK 0049

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO No. 595 of 999 (O&M)

The National Insurance
Company Limited

APPELLANT

Parmod Devi

Vs

RESPONDENT

Date of Decision: July 21, 2014

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: R.M. Suri, Advocate for the Appellant; D.D. Gupta, Additional Advocate General and J.S. Mehndiratta, Advocate for the Respondent

Final Decision: Partly Allowed

Judgement

K. Kannan, J.

The appeal by the insurer is on a plea that the vehicle involved in the accident was a three wheeler that was used as a transport vehicle when 6 to 7 persons have been carried in the vehicle and one of them had died. The driver had a license to drive a tractor and license did not contain any endorsement for driving a transport vehicle. Such a driver could not be stated to be having an effective driving license to secure a right of indemnity from the insurer for himself and for his owner. The liability cast without providing for a right of recovery is against the law laid down by the Supreme Court in Oriental Insurance Co. Ltd. Vs. Angad Kol and Others, The claimants shall have right of enforcement of the award already passed against the insurer and the insurer will have right of recoveries after satisfying the award against the insured and his driver.

2. The award is modified and the appeal is allowed to the above extent. The Tribunal has already apportioned the liability 50:50 between the owner of the bus and the owner of the insurer of the three wheeler. The observations regarding the recoveries shall therefore be in relation to the apportioned liability as regards the owner and driver of the three wheeler.