

F.A.O.No. 815 OF 2006,
F.A.O. Nos. 939 & 940 of 2006,
F.A.O.No. 1236 & 1239 of 2006 and
F.A.O.No. 1697 of 2006

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

**1. F.A.O.NO. 815 OF 2006
Date of decision:30th September, 2010**

Smt. Satyawati and others

.....Appellants

Versus

Tara Chand and others

.....Respondents

**2. F.A.O. NO. 939 of 2006
Smt. Seema Devi**

.....Appellant

Versus

Tara Chand and others

.....Respondents

**3. F.A.O.NO. 940 OF 2006
Smt. Mani Pandey and others**

.....Appellant

Versus

Tara Chand and others

.....Respondents

**4. F.A.O.NO. 1236 of 2006
United India Insurance Co. Ltd.**

.....Appellant

Versus

Smt. Satyawati and others

.....Respondents

**5. F.A.O.No. 1237 of 2006
United India Insurance Co. Ltd.**

.....Appellant

Versus

Smt. Seema Devi and others

F.A.O.No. 815 OF 2006,
F.A.O. Nos. 939 & 940 of 2006,
F.A.O.No. 1236 & 1239 of 2006 and
F.A.O.No. 1697 of 2006

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.....Respondents

6. F.A.O.No. 1238 of 2006
United India Insurance Co. Ltd.

.....Appellant

Versus

Smt. Pushpa Rani and others

.....Respondents

7. F.A.O.No. 1239 of 2006
United India Insurance Co. Ltd.

.....Appellant

Versus

Smt. Mani Pandey and others

.....Respondents

8. F.A.O.No. 1697 of 2006
Pushpa Rani and others

.....Appellants

Versus

Tara Chand and others

.....Respondents

BEFORE: HON'BLE MR. JUSTICE K.KANNAN

Present: Mr. R.M.Suri, Advocate,
for United India Insurance Co. Ltd.

Ms. Neena Madan, Advocate,
for Mr. Raghujeet Singh Madan, Advocate,
for respondent No. 3 in FAO Nos. 939 & 940.

Mr. Rajesh Hooda, Advocate,
for Mr. Kamal Sehgal, Advocate,
for the National Insurance Company Ltd.

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not?Yes/No
3. Whether the judgment should be reported in the Digest?

Yes/No

K.Kannan, J.(Oral)

1. Out of the batch of 8 appeals four appeals are at the instance of the Insurance Company and four are by the claimants, seeking for enhancement of compensation. The claimants were passengers in the car all of whom died in its collision with the truck. The accident is said to have taken place when the insured's truck which was going ahead of the car in which all the deceased were travelling applied brake without any signal and that car collided with the truck from the back side. The driver of the car had reportedly tried to make an attempt to avoid the accident but in vain. The case has been registered against the driver of the truck in FIR NO. 58 and by the fact that a report had also been prepared by the police under Section 173 Code of Criminal Procedure(Cr.P.C) and chargesheet having been levied against the driver of the truck, the Court found that the truck driver was responsible for the accident.

2. Learned counsel appearing for the Insurance Company would point out that in the manner in which the accident is narrated, it is inconceivable that any negligence could be attributed to the insured's driver. While I can appreciate the vehemence and the justification I still cannot commit to him such a privilege since the law does not allow for the insurer to join issues on negligence. I would take the case as having become final as far as insurer is concerned

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when it did not have the benefit of Section 170 of the Motor Vehicles Act(hereinafter referred to as the 'Ac'). I am unable to see from the grounds that the insurance company had the benefit of any defence under Section 170 of the Act. If there had been none then the insurance company cannot urge the same in as a point of consideration in appeal.

3. There are FAO Nos. 815, 939, 940 and 1697 of 2006 by the claimants for enhancement but there is no representation on their behalf. Consequently, all the appeals for enhancement are dismissed and FAO Nos. 1236, 1237, 1238 and 1239 of 2006 by the Insurance Company are also dismissed. The award of the Tribunal under circumstances are confirmed and all the appeals are hereby dismissed.

**[K.KANNAN]
JUDGE**

30th September, 2010
Shivani Kaushik