
(2011) 01 P&H CK 0422

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 1333 of 1991 (O and M)

Tek Ram

APPELLANT

Vs

Narinder Singh and Others

RESPONDENT

Date of Decision : 20-01-2011

Acts Referred:

Citation : (2012) ACJ 2016 : (2011) 162 PLR 107 : (2011) 3 TAC 677

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

K. Kannan, J.—The appeal is at the instance of the owner/insured making a claim for damage to the vehicle against his insurer. It was stated in the petition that there had been a settlement but it was contended by the owner that the amount had not been paid. If the amount had not been paid, the owner's right of enforcement will be available in a Civil Court or in the contest of the provision under Consumer Protection Act. It could be complained of a deficiency of service and make the insurer liable for damages. There is no provision in law for an insured to make a claim against his own insurer in an application filed u/s 165 or through an adjudication through Section 168. The Tribunal has power to dispose of a claim for compensation arising out of damage to any property of a third party in a motor accident. A claim for damages for his own vehicle does not lie before a Tribunal.

2. The learned Counsel states that there is already a finding that the Petitioner has not proved that the amount has not been paid by the insurer. I vacate the finding on the ground that there could be no presumption that any amount has been paid by the insurer to the insured.

3. The claimant shall be at liberty to prosecute a claim in an appropriate forum either as a civil suit or in an action under the Consumer Protection Act and the pendency of the case all these years may be explained as a bona fide exercise

and if such a plea is taken, the Court or a forum may consider the same for exclusion of the period for the purpose of limitation. This order shall not be used as proof that the Petitioner is entitled to his damages as claimed by him. It will be a matter of dependent proof at an appropriate stage before an appropriate forum. The appeal is dismissed but subject to the observations made above.