

(2009) 10 P&H CK 0056
In the Punjab And Haryana At Chandigarh
Case No : FAO No.4810 of 2009 (O&M)

United India Insurance Company Limited	APPELLANT
Vs	
Sharbati Devi & Ors.	RESPONDENT

Date of Decision : 07-10-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 120b, 406, 420

Citation : (2010) 1 Law Herald 160

Hon'ble Judges : Rakesh Kumar Garg, J

Advocate : For the Appellant: Mr. R.K. Bashamboo, Advocate., Advocates for appearing Parties

Judgement

Rakesh Kumar Garg, J.(Oral)

1. CM No.23383CII of 2009

For the reasons mentioned in the application, delay of 1 day in filing the appeal is condoned. CM stands disposed of.

FAO No.4810 of 2009

This is insurer's appeal challenging the impugned award only on the ground that compensation granted by the Tribunal is on the higher side.

2. Admittedly, the appellant Insurance Company was not granted permission under Section 170 of the Motor Vehicles Act, 1988 to contest the case on merits and take up all those defences which are available to the owner/driver of the offending vehicle. However, the contention of the learned counsel for the appellant is that application filed under Section 170 of the Motor Vehicles Act was filed before the Tribunal, however, the same has not been decided and therefore, the award is liable to be set aside.

3. I have heard learned counsel for the appellant. However, I find no merit in the arguments raised.

4. Admittedly, the application under Section 170 of the Motor Vehicles Act, 1988 was filed by the appellantCompany at the initial stage and the issues were framed thereafter. No such issue was claimed by the appellantInsurance Company before the Tribunal. Neither the appellant Company had raised the aforesaid objection, as taken before this Court during the pendency of the claim petition before the Tribunal. Further from the perusal of the award, it is found that no evidence was led by the appellantCompany except raising an objection in its pleadings that the petition has been filed by the claimants in collusion with driver and owner of the offending vehicle.

In view thereof, I find no merit in this appeal.

Dismissed.