

(2009) 10 P&H CK 0070
In the Punjab And Haryana At Chandigarh
Case No : First Appeal Order No. 4810 of 2009

United India Insurance Company Limited	APPELLANT
Vs	
Sharbati Devi	RESPONDENT

Date of Decision : 07-10-2009

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 2
Motor Vehicles Act, 1988 — Section 170, 173

Citation : (2010) 1 AICJ 242 : (2010) 2 RCR(Civil) 57

Hon'ble Judges : Rakesh Kumar Garg, J

Judgement

Rakesh Kumar Garg, J.

1 This is insurers 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 tiled by the appellant Company at the initial stage and the issues were framed thereafter. No such issue was claimed by the appellant Insurance 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 appellant Company 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