

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

FAO No.3234 of 1996

Date of decision:30.06.2010

The New India Assurance Company Limited

....Appellant

versus

Mrs. Lalima Mishra and others

...Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Ms. Radhika Suri, Advocate, for the appellant.

None for the respondents.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not ?
3. Whether the judgment should be reported in the digest ?

K.Kannan, J. (Oral)

1. The solitary point for consideration in the case is the liability of the Insurance Company for an accident that took place prior to the commencement of the policy and its effect thereof. The contention of the Insurance Company was that the accident was reported to have taken place on 18.02.1992 at 9.30 AM and without disclosing the same, a policy had been taken up in the afternoon on the same day by laying a premium at 4.50 PM and the cover note had also been issued only at that time. The policy was cancelled subsequently by the Insurance Company by serving a notice on the insured alleging suppression of a vital fact relating to the accident in the earlier part of the day. The contract of insurance is a contract of *uberrima-feidi* and the non-disclosure of an

event of an accident, would definitely afford a right to the Insurance Company to disown liability. The learned counsel refers to the decision of the Hon'ble Supreme Court in **National Insurance Company Versus Sobina Lakai-2007(4) PLR 614**, that dealt with the case of a renewal of a licence when it held that the renewal will operate only from the time when it was specified in the cover note, if there was no overlapping of the period of the expiry of a pre-existing policy and the commencement of a new policy. In this case, the vehicle was insured for the first time only in the afternoon and the cover note refers to the date of commencement as the date of issue of the policy as 4.50 PM. The Insurance Company could not have been made liable for the policy that commenced after the accident. The Insurance Company ought to have been totally exonerated. The award in so far as it fixed the liability on the Insurance Company, is set aside and the appeal is allowed to that extent.

(K.KANNAN)
JUDGE

30.06.2010
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