

A NATIONAL INSURANCE CO. LTD.

v.

RAM KALI AND ORS.

JANUARY 5, 2004

B [V. N. KHARE, C.J., D.M. DHARMADHIKARI AND
S.B. SINHA, JJ.]

C *Motor Vehicles Act, 1988—Motor accident—Claim for compensation—
Compensation awarded by Tribunal despite holding that terms and conditions
of insurance policy violated at the time of accident—High Court confirming
the award despite holding that driving licence of driver of vehicle was fake—
Special leave petition before Supreme Court—Held: Order of courts below
need no interference as in awarding compensation they had exercised discretion
in favour of the claimant—Constitution of India, 1950—Article 136.*

D CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No.
9065 of 2003.

From the Judgment and Order dated 20.12.2002 of the Punjab and
Haryana High Court in F.A.O. No. 5942 of 2002.

E Parmanand Gaur for the Petitioner.

The Judgment of the Court was delivered

F This Special Leave Petition is directed against a judgment and order
dated 20th December, 2002 passed by the High Court of Punjab and Haryana
at Chandigarh whereby and whereunder the appeal filed by the petitioner
herein questioning an award dated 6-9-2002 made by Motor Accident Claims
Tribunal, Fatehabad was dismissed. The High Court has dismissed the
aforementioned appeal *inter alia* on the ground that the driving licence of
the offending vehicle had been found to be fake. The learned Tribunal,
G however, arrived at the finding of fact that the first respondent herein has
violated the terms and conditions of the insurance policy by plying the Maruti
Van on hire/reward at the time of accident.

H The said question, it appears from the impugned judgment of the High
Court, was not adverted to before it.

In view of the fact that both the Tribunal and the High Court had exercised their discretion in favour of the claimant. We do not intend to exercise our discretionary jurisdiction under Article 136 of the Constitution of India. Accordingly, this petition is dismissed. No costs.

K.K.T.

Petition dismissed.