



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

**RSA No.3201 of 1999 (O&M)**

**Date of Order:28.03.2025**

**Gopal Krishan**

**.Appellant**

**Versus**

**The New India Insurance Co. Ltd.**

**..Respondent**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. Ashok Khubbar, Advocate  
for the appellant.**

**Mr. Satpal Dhamija, Advocate  
for the Insurane Company.**

**ANIL KSHETARPAL, JUDGE (Oral)**

1. The plaintiff assails the correctness of the first appellate court's judgment which in turn has reversed the judgment of the trial court. In substance, the plaintiff filed a suit for mandatory injunction directing the respondent to pay the damages of Truck No.HYE/7405, on account of the accident.

2. The respondent contested the suit. The trial court found that the Insurance Company is liable to pay the damages, however, the plaintiff has not filed a suit for recovery. Hence, the suit was decreed subject to deposit of court fee on the decretal amount.

3. The Insurance Company filed the appeal. The findings of fact arrived at by the trial court that the Insurance Company is liable to pay the amount has been upheld, however, the appellate court has reversed the judgment and decree on the ground that the plaintiff has not filed a suit for recovery.



4. This Bench has heard the learned counsel representing the parties.

5. It is evident that the first appellate court has taken a narrow view of the matter. The trial court had adopted practical approach while decreeing the suit subject to payment of the deposit of requisite court fee. The appeal filed by the Insurance Company could not be allowed without granting opportunity to the plaintiff to deposit the same. In substance, the suit is for recovery. The first appellate court should not have gone to the format of the suit because the only difference is with regard to prayer made in the suit.

6. Accordingly, the first appellate court's judgment is reversed and that of the trial court is restored.

7. The appeal is allowed.

8. All the pending miscellaneous applications, if any, are also disposed of.

**(ANIL KSHETARPAL)**  
**JUDGE**

**March 28, 2025**

**nt**

**Whether speaking/reasoned : Yes/No**

**Whether reportable : Yes/No**