

**106 + 209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.3547 of 2013(O&M)

Date of decision : 09.11.2016

Harpati Devi

..... Appellant

versus

Smt.Bant Kaur and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. D.R.Bansal, Advocate for the appellant.

Mr.M.S.Bitta, Advocate for respondents No. 1 to 5.

Mr.D.K.Prajapati, Advocate
for Mr.R.S.Madan, Advocate for respondent No.6.

REKHA MITTAL, J. (Oral)

Harpati Devi, owner of Canter No. HP-63-2347 is in appeal to assail the findings of the Motor Accident Claims Tribunal, Panchkula (in short 'the Tribunal') recorded in para 35 of the award holding that as respondent No.2 therein (owner) could not establish that Ajju Kumar alias Ajay-respondent No.1(driver of the vehicle) was holding a valid driving licence, it could be presumed that driver did not have a valid driving licence on the date of accident, thus, respondent No.2 has violated the terms and conditions of the insurance policy and the insurance company is not liable to pay compensation.

The appellant has filed an application under Order 41 Rule 27 read with Section 151 of the Code of Civil Procedure for additional evidence on the premise that driving licence of the driver was in possession of the

traffic police, Rohru (H.P.), therefore, the same could not be produced before the Tribunal at an appropriate stage of the proceedings and she may be allowed to adduce additional evidence in regard to the said findings.

Counsel for the parties are ad idem that the award passed by the learned Tribunal in regard to its findings recorded in para 35 of the award may be set aside and the matter may be remitted to the Tribunal for decision in regard to the question of the driver of the alleged offending vehicle holding a valid driving licence at the time of occurrence.

In view of the above, the appeal is partly allowed, findings recorded by the Tribunal in para 35 of the award are set aside and the matter is remitted to the Tribunal for decision afresh only qua question of validity or otherwise of the driving licence alleged to be possessed by Ajju Kumar alias Ajay, driver of the Canter No. HP-63-2347 and liability of the insurance company, on the basis of additional evidence to be adduced by the appellant and evidence in rebuttal, if any, adduced by the insurance company. The parties through counsel are directed to appear before the Tribunal on 30.11.2016. The Tribunal is directed to decide the question aforesaid within a period of two months from the parties putting in appearance.

(REKHA MITTAL)
JUDGE

November 09, 2016
sunita

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No