

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

**Date of decision: 11.07.2017**

**FAO No.10143 of 2014 (O&M)**

United India Insurance Company Ltd.

...Appellant

Vs.

Umar Mohd. & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr. Rajesh K. Sharma, Advocate,  
for the appellant.

**RAJIV NARAIN RAINA, J. (ORAL)**

1. Respondent 3 has refused to accept summons and accordingly affixation has been done as per office note dated 29.11.2016. He is treated as duly served and is proceeded against ex parte.

2. Heard Mr. Rajesh K. Sharma, learned counsel for the appellant at some length and am impressed with the contention that an error was committed by the Tribunal which requires rectification as hereafter explained.

3. The Insurance Company has no quarrel with the compensation awarded to the claimant. It has filed this appeal complaining that the driving license, route permit and the fitness certificate of the offending vehicle have not been produced by the owner in spite of an application moved under Section 169(ii) of the Motor Vehicles Act, 1988 by the company before the Tribunal during the trial. The result is that these three vital documents are not on record, but strangely observation has been made in the impugned award that the documents are on file. This is untrue to record.

4. To correct this error, upon which recovery rights are based, the matter will have to be remanded to the Motor Accident Claims Tribunal on the narrow issue to crease out the defect in the proceedings.

5. Consequently, the instant appeal is partly allowed to the extent of error of fact. The case is remanded to the Motor Accident Claims Tribunal, Palwal for it to examine the original record and pass appropriate orders on the application to be moved by the appellant-Insurance Company in this behalf.

6. Appellant to appear before the Tribunal on 17.08.2017 for further proceedings.

**11.07.2017**  
Vimal

**[RAJIV NARAIN RAINA]**  
**JUDGE**

*Whether speaking/reasoned:* *Yes*

*Whether Reportable:* *No*