

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

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FAO-1129-2015 (O&M)
Date of decision: 29.05.2018

NEW INDIA ASSURANCE CO. LTD

... Appellant

Versus

KRISHNA DEVI AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Deepak Suri, Advocate for the appellant.

Mr. Ravi Gakhar, Advocate for the cross-objectors.

Mr. Prashant Bansal, Advocate for respondents No.5 and 6.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 04.09.2014 passed by the Motor Accidents Claims Tribunal, Patiala whereby compensation has been awarded on account of death of Amarjit Singh in a motor vehicular accident that took place on 07.04.2013.

Counsel for the insurance company would inform that the appeal has been preferred to assail findings of the Tribunal on additional issue framed vide order dated 05.03.2014 with regard to permit and fitness certificate. Onus thereof was placed upon the claimants.

Perusal of findings of the Tribunal would reveal that the entire approach adopted by the Tribunal in first placing onus of additional issue upon the claimants and thereafter deciding the said issue against the insurance company is faulty, thus, findings recorded by the Tribunal on issue No.1 are liable to be set aside and the matter needs to be remitted to the Tribunal for adjudication afresh on the additional issue to be framed in the following terms:-

Whether truck bearing No.PB-13W-9958 was being plied without a permit on 07.04.2013?OPR-3.

The parties are directed to appear before the Tribunal on 13.07.2018. They shall be at liberty to adduce additional evidence for adjudication of the aforesaid issue afresh. The Tribunal is directed to complete the exercise within a period of two months from the parties putting in appearance.

Disposed of accordingly.

It is clarified that the cross objections filed by the claimants shall be decided independently.

**(REKHA MITTAL)
JUDGE**

29.05.2018

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Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No