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

**1. FAO No.5220 of 2013 (O&M)
Date of Decision : 10.12.2018**

Gaurav Sharma

Appellant

Versus

Kanija Begam and others

Respondents

2. FAO No.5221 of 2013(O&M)
Gaurav Sharma

Appellant

Versus

Vinit and others

Respondents

3. FAO No.5222 of 2013 (O&M)
Gaurav Sharma

Appellant

Versus

Shailesh Verma and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Lalit Kumar, Advocate and
Mr. Ashwani Talwar, Advocate
for the appellant.

Ms. Vandana Malhotra, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

Three appeals arise out of award dated 06.08.2013 passed by the Motor Accident Claims Tribunal, Faridabad [for brevity 'the Tribunal']. Since the issue involved is similar, these are being disposed of by a single order.

The brief facts of the case are that on 06.04.2012, a motor vehicular accident took place involving three-wheeler bearing

registration No. HR-38R-1639. Abdul Majid, Vinit and Shailesh Verma were travelling in the said three-wheeler. Abdul Majid died in the accident whereas Vinit and Shailesh Verma sustained injuries. FIR No.130, dated 06.04.2012 was registered at Police Station Central Faridabad.

Three claim petitions were filed under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act']. The Tribunal after considering the facts and appreciating the evidence adduced, awarded compensation to the claimants in all three claim petitions. The Tribunal further granted recovery rights to the insurer i.e. to pay the compensation and thereafter recover the same from the owner and driver of the three-wheeler.

Aggrieved of the recovery rights, the owner of the three-wheeler has filed three appeals. The grievance raised is that the Driving License (Ex.P1) issued by Ballabhgarh Licensing Authority for driving motor cycle as well as motor car is also valid for driving a three-wheeler.

Pin-pointed issue which arise for determination is that as to whether the Driving License issued for driving a motor car shall be valid for driving a three-wheeler.

In order to decide the said issue, factual aspect that need to be gone into is that whether three-wheeler is covered within the ambit of the term 'motor car'. As per Section 10 of the Act, there is no category of 'motor car'. But as per Sections 2(26) and 2(27) of the Act, 'motor car' and 'motor cycle' have been defined as under:-

2. Definitions.-

In this Act, unless the context otherwise requires,--

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26. *"motor car" means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor cycle or invalid carriage;*

27. *"motor cycle" means a two-wheeled motor vehicle, inclusive of any detachable side-car having an extra wheel, attached to the motor vehicle;*

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The issue with regard to liability to pay compensation, is remitted back to the Tribunal to be decided afresh after affording an opportunity to the parties, to adduce fresh evidence in support of their claim, including producing of the official concerned from the Licensing Authority to determine as to whether license issued to the driver of motor-car was valid for driving a three-wheeler or not. Moreover, there is another licence produced before the Tribunal which was issued by Licensing Authority, Nagaland. This Court without advertng upon the legal aspects as to whether such licence can be relied upon or not, the issue is remanded back to be dealt with by the Tribunal, in accordance with law.

The parties are directed to appear before the Tribunal on 17.01.2019.

[AVNEESH JHINGAN]
JUDGE

December 10th, 2018
pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes/ No |
| 2. Whether reportable | : | Yes/ No |