

221

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

**FAO No.5660 of 2014 (O&M)
Date of Decision: 15.11.2018**

Harbhajan Singh and another

Appellants

Versus

National Insurance Co. Ltd. and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sarbjit Singh, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The owner and driver of truck bearing registration No. PB-02BE-9877 (hereinafter referred to as 'offending vehicle') are in appeal against award dated 01.02.2014 passed by Motor Accident Claims Tribunal, Amritsar (for brevity 'the Tribunal').

In a motor vehicular accident that took place on 24.04.2013, Surjit Singh lost his life. The vehicles involved in the accident were motorcycle bearing registration No.PB-02AR-8546 and offending vehicle. A claim petition was filed by the legal heirs of Surjit Singh under Section 166 of the Motor Vehicles Act, 1988 (for brevity 'the Act'). The Tribunal after considering the facts and appreciating the evidence adduced held that accident occurred due

to rash and negligent driving of the offending vehicle. The claimants were awarded compensation of Rs. 6,20,851/- alongwith interest @ 7.5% per annum. Since the owner of the offending vheicle failed to produce Route Permit and Fitness Certificate, recovery rights were given to the insurer of the offending vehicle.

Aggrieved of the recovery rights being given to the insurer, the present appeal has been filed. Alongwith the appeal, the appellants annexed All India Permit and Fitness Certificate during the pendency of this appeal. The Insurer has verified the Fitness Certificate and Route Permit. An affidavit dated 07.10.2016 has been filed by the insurer stating that both the documents have been verified and found genuine.

In view of the verification of the documents, award dated 01.02.2014 is modified to the extent that insurer of the offending vehicle would not have the recovery rights. The owner, driver and insurer of the offending vehicle will be jointly and severally liable to pay the compensation.

The appeal is allowed.

[AVNEESH JHINGAN]
JUDGE

November 15, 2018

pankaj baweja

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