

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

**FAO No.6885 of 2015(O&M)
& XOBJC-121-CII of 2017**

Date of decision: 28.2.2018

Tajinder Kaur and othersAppellants

VERSUS

Karnail Singh and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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

None for respondent No.1.

Mr. Shekhar Verma, Advocate for respondent No.2/cross objector.

Mr. R.N. Singal, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO No.6885 of 2015 and cross objections No.121-CII of 2017.

Counsel for the appellants/claimants would state that he has the instructions to withdraw the appeal.

Dismissed as withdrawn.

XOBJC-121-CII of 2017

Counsel for the cross objector/owner of truck No.PB-10J-9621 would state that cross objections have been filed to assail findings of the Tribunal whereby recovery right has been given to the insurance company for want of permit. It is argued that the cross objector filed an

application under Order 41 Rule 27 CPC for adducing additional evidence in order to enable the insured to produce on record copy of the permit as well as driving licence.

Counsel representing the insurance company has fairly conceded that on verification, permit is found to be correct and genuine but no verification was made with regard to driving licence as the Tribunal has not recorded any findings qua the driving licence despite issue No.3 having been framed in this regard.

Counsel for the parties are ad idem that findings of the Tribunal giving recovery right in favour of the insurer for want of permit may be set aside and the matter may be remitted to the Tribunal for deciding the issue of driving licence with liberty to the parties to adduce evidence on the said issue.

In view of the above, the cross objections are partly allowed. Findings of the Tribunal that the insured is guilty of non-possessing the permit and therefore, violating the terms and conditions of policy constituting a defence in favour of the insurer are liable to be set aside and ordered accordingly but without prejudice to right of the insurance company to press for right of recovery for want of valid driving licence with the driver. Further, the matter is remitted to the Tribunal for deciding issue No.3 afresh on the basis of evidence to be adduced by the parties in accordance with law. The cross objector and the insurance company shall cause appearance before the Tribunal on 28.03.2018.

FEBRUARY 28, 2018
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no