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

**1. FAO No.1462 of 2015 (O&M)
Date of Decision : 02.04.2019**

M/s Kiscon Construction, Kapurthala

Appellant

Versus

Gurmail Kaur and others

Respondents

2. FAO No.1559 of 2015 (O&M)

M/s Kiscon Construction, Kapurthala

Appellant

Versus

Sulinder Kaur and others

Respondents

3. FAO No.1561 of 2015 (O&M)

M/s Kiscon Construction, Kapurthala

Appellant

Versus

Kamaljit and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Nupur Sood, Advocate for
Mr. Namit Gautam, Advocate
for the appellant.

Mr. Paul S. Saini, Advocate
for the respondent No.4-Insurance Company.

AVNEESH JHINGAN, J (Oral):

The awards dated 31.10.2014 passed by the Motor
Accident Claims Tribunal, Jalandhar [for brevity 'the Tribunal'] in

Case Nos.22/2014, 21/2014 and 23/2014 have been assailed by filing three appeals by the owner of Tipper bearing registration No. PB-08BJ-3688 [hereinafter referred to as 'offending vehicle']. The only challenge in these appeals is against the recovery rights granted to the insurer of the offending vehicle holding that the driver of the offending vehicle was not having a valid Driving Licence authorizing him to drive a Transport Vehicle.

Since these appeals arise from same accident and common issue is involved, these are being disposed of by a common order.

The facts with regard to the accident are not in dispute between the parties. A motor vehicular accident took place on 09.11.2013, which proved fatal for Lovedeep Kalsi, Tejinder Singh and Sanjiv Kumar. The accident was caused due to the rash and negligent driving of the offending vehicle. In all the three claim petitions, compensation was awarded to the legal representatives of the deceased. The insurer of the offending vehicle was held liable to pay the compensation but was granted right to recover the amounts from the owner and driver of the offending vehicle.

There is no challenge to the fact that offending vehicle was a Tipper and falls in the the category of Transport Vehicle.

Learned counsel for the appellant contends that the Tribunal erred in holding that the Driving Licence (Ex.D2) was not

valid on the date of the accident for driving a Transport Vehicle.

Learned counsel for the appellant relied upon Ex.D2 to state that the Driving Licence was valid for driving a Transport Vehicle for the period from 02.09.2013 to 01.09.2016.

Heard learned counsel for the parties, perused the paper book and relevant documents produced by them.

The Driving Licence (Ex.D2), which has been relied upon by the learned counsel for the appellant, has been confronted to learned counsel for the insurer. He could not raise any dispute to the fact that there is an error in the award as the Tribunal overlooked the fact that the Licence was valid on the date of accident to drive a Transport Vehicle. In such circumstances, recovery rights granted to the insurer of the offending vehicle cannot be sustained.

The awards dated 31.10.2014 passed in Case Nos.22/2014, 21/2014 and 23/2014 are modified to the extent that the owner, driver and insurer shall be jointly and severally liable to pay the compensation.

All the three appeals are allowed.

[AVNEESH JHINGAN]
JUDGE

April 02, 2019

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