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

**FAO No.2730 of 2016 (O&M)
Date of Decision: 22.01.2019**

Amina and another

Appellants

Versus

Tahir and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vipul Sharma, Advocate
for the appellants.

Mr. Ashish Gupta, Advocate
for respondents No.1 and 2.

Mr. Sudhanshu Makkar, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral):

The award dated 11.01.2016 passed by the Motor Accident Claims Tribunal, Mewat [for brevity 'the Tribunal'] has been assailed by the legal heirs of Shokeen, being aggrieved of dismissal of claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The facts of the case are in dispute. It has been argued that in the alleged accident, that took place on 28.08.2010, two persons lost their lives i.e. Shokeen and Tahir.

Learned counsel for the appellants contends that in Claim Petition No. 1164 of 2014 wrong facts have been mentioned and it was in view of those facts, the Tribunal doubted the

involvement of the motorcycle and thus, claim petition of the appellants was dismissed. He refers to the award dated 30.05.2013, passed in Claim Petition No. 91 of 2011, by the Motor Accident Claims Tribunal Nuh, in which the claim petition filed under Section 166 of the Act by legal heirs of Tahir, has been allowed.

In this claim petition it has been pleaded that two motorcycles were involved in the accident i.e. motorcycle bearing registration No. HR-28C-1828 and another motorcycle bearing registration No. HR-99V-DV(Temp)-9876. He further relies upon the deposition of Yusuf who appeared before the Tribunal and stated that the motorcycle bearing registration No. HR-28C-1828 was being driven by Tahir.

From the perusal of the two awards, it appears that contradictory findings have been recorded for the same accident. In such circumstances, the impugned award is set aside.

The matter is remitted back to the Tribunal to decide the claim petition afresh in accordance with law after affording opportunity of hearing to the parties.

The parties are directed to appear before the Tribunal on 25.02.2019.

The appeal stands disposed of.

[AVNEESH JHINGAN]
JUDGE

January 22nd, 2019
pankaj baweja

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