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

**FAO No.4258 of 2016
Date of Decision : 02.05.2019**

Pawan Kumar

Appellant

Versus

Gurmail Kaur and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Saurabh Sharma, Advocate
for the appellant.

Mr. Pardeep Sehrawat, Advocate for
Mr. Vivek Goyal, Advocate
for respondent No.1.

Mr. Sukhdarshan Singh, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral)

The award dated 05.04.2016 passed by the Motor Accident Claims Tribunal, Kaithal [for brevity 'the Tribunal'] has been assailed by owner of Truck bearing registration No. HR-62-9396 [hereinafter referred to as 'offending vehicle'].

The grievance raised in the present appeal is that the Tribunal erred in granting recovery rights to the insurer of the offending vehicle on the ground that the driver of the

offending vehicle was not having valid Driving Licence to drive Heavy Transport Vehicle. Alongwith the appeal, an application under Order XLI Rule 27 of the Code of Civil Procedure, 1908 (CPC) has been moved seeking permission for producing endorsement of the Driving Licence whereby the Driver of the offending vehicle was authorised to drive Heavy Transport Vehicle on the date of accident.

Learned counsel for the insurer argues that the endorsement was never produced before the Tribunal. He may be provided an opportunity to verify the Driving Licence alongwith the endorsement produced now.

Since the endorsement is being produced for the first time, it would not be appropriate to accept the same without giving an opportunity to the insurer of the offending vehicle to verify and rebut the same.

Without expressing any opinion on the merits of the case, the matter only with regard to liability to pay compensation is remitted back to the Tribunal to be decided afresh after affording opportunity to the owner and insurer of the offending vehicle to adduce fresh evidence in support of their claims.

The owner and insurer of the offending vehicle are directed to appear before the Tribunal on 15.10.2019. The documents attached with the Civil Miscellaneous Application be also sent to the Tribunal. A copy of the endorsement is handed

over to the learned counsel for the insurer who states that in the
meantime, the process of verification shall be undertaken.

The appeal is disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

May 02, 2019
pankaj baweja

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