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

**FAO No. 5507 of 2015 (O&M)
DECIDED ON: JANUARY 14, 2019**

LAJJA RAM

.....APPELLANT

VERSUS

ICICI LOMBARD GENRAL INSURANCE CO. LTD. & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Neeraj Khanna, Advocate
for the appellant.

Mr. Sanjeev Goyal, Advocate for
Mr. Rajbir Singh, Advocate
for respondent No.1.

Mr. Ashwani Arora, Advocate
for respondents No.2 and 3.

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<u>AVNEESH JHINGAN J. (ORAL)</u>

The award dated 04.02.2015 passed by the Motor Accident Claims Tribunal, Chandigarh (for brevity 'the Tribunal') has been assailed by the driver-cum-owner of motorcycle bearing registration No. HR-04-C-7410 (hereinafter referred to as 'offending vehicle').

The insurer i.e. ICICI Lombard General Insurance Co. Ltd. of the offending vehicle has been arrayed as respondent No.1 in the appeal. The claimants have been arrayed as proforma respondents in the appeal.

The brief facts necessary for the adjudication of the present appeal are that a motor vehicular accident took place on 21.10.2012. In the said accident Balbir Sharma (deceased) was a pillion rider on the offending vehicle, which was being driven by the appellant.

A claim petition under Section 166 of Motor Vehicles Act, 1988 (for short 'the Act') was filed by the legal heirs of Balbir Sharma. The Tribunal after considering the facts and on appreciating the evidence adduced, held that the accident was caused due to the rash and negligent driving of the offending vehicle. The Tribunal awarded a compensation of ₹13,52,720/- alongwith interest @ 7.5% per annum. The liability to pay was joint and several but the insurance company was granted recovery rights as the driving licence produced by the driver-cum-owner of the offending vehicle before the Tribunal was not found to be validly issued.

Alongwith the appeal, an application under Order XLI Rule 27 of the Civil Procedure Code, 1908 seeking permission to lead additional evidence has been filed. A copy of smart card of the driving licence produced before the Tribunal is annexed with the afore-said application. The insurer was directed to verify the same.

Today, the insurer has produced a verification report whereby, it has been verified that the driving licence produced before the Tribunal was valid on the date of accident. The verification report produced by the insurer is taken on record.

In view of above, the present appeal is allowed and the award dated

04.02.2015 passed by the Tribunal is modified to the extent that the driver-cum-owner and insurer of the offending vehicle shall be jointly and severally liable to pay the compensation to the claimants and no recovery rights are granted to the insurer.

(AVNEESH JHINGAN)
JUDGE

JANUARY 14, 2019
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Whether speaking/reasoned: ***Yes / No***
Whether reportable : ***Yes / No***