

220 (1/3)

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

FAO No.5152 of 2017 (O&M)

Date of Decision: 08.03.2019

Veer Bhan @ Bhanveer and another

Appellants

Versus

Manoj Kumar through next friend and another

Respondents

FAO No.5153 of 2017 (O&M)

Veer Bhan @ Bhanveer and another

Appellants

Versus

Babli Devi and others

Respondents

FAO No.5155 of 2017 (O&M)

Veer Bhan @ Bhanveer and another

Appellants

Versus

Harkesh and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. J.P. Sharma, Advocate
for the appellants.

Mr. Rajneesh Malhotra, Advocate
for the Insurance Company.

AVNEESH JHINGAN, J (Oral):

The award dated 10.04.2016 passed by the Motor
Accident Claims Tribunal, Narnaul [for brevity 'the Tribunal'] in MACT
Case Nos. RBT-26 of 2015, RBT-125 of 2015 and RBT-27 of 2015

has been assailed in three separate appeals by the owner and driver of vehicle bearing registration No. HR-19E-0521 [hereinafter referred to as 'offending vehicle'] being aggrieved of recovery rights granted to the insurer of the offending vehicle.

The facts with regard to the accident and the amount of compensation awarded are not in dispute.

Brief facts are that a motor vehicular accident took place on 15.02.2015. The Tribunal after considering the facts and evidence adduced held that the accident was result of negligence of driver of the offending vehicle.

Three claim petitions were filed claiming compensation under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act']. The Tribunal awarded compensation in all the three claim petitions. The insurance company was held liable to pay the compensation but was granted recovery rights on the ground that no permit has been produced and the Driving Licence of the driver of offending vehicle was not valid to drive a School Bus.

Learned counsel for the appellants contends that a copy of Driving Licence and permit has been annexed with the appeal also. His grievance is that permit was produced before the Tribunal as Ex.R-3. The Tribunal erred in recording the findings that no permit was produced. He relies upon the Driving Licence to state that Driving Licence was valid on the date of accident and it authorizes the driver to drive a School Bus.

Learned counsel for the insurer was not in a position to

dispute the fact that permit was produced before the Tribunal. However, he states that one opportunity be granted to verify the same. He further states that Driving Licence authorizes the driver to drive transport vehicle of rigid chassis only, it never authorizes the driver to drive a school bus.

For deciding the above mentioned two issues involved in the present appeal, certain factual aspects would be required to be gone into, which would require further evidence.

Without expressing any opinion on the merits of the case, the issue only with regard to liability to pay compensation is remitted back to the Tribunal. The Tribunal shall decide both the aspects i.e. whether the Driving Licence produced, in which transport vehicle of rigid chassis is duly mentioned, authorizes the driver to drive a school bus and secondly, that permit annexed with the appeal and produced before the Tribunal was valid on the date of accident or not.

The parties are directed to appear before the Tribunal on 16.04.2019. The Tribunal shall afford opportunity to the parties to adduce fresh evidence in support of their claims, if so desired. Original permit annexed with the appeal be also sent to the Tribunal.

All the appeals are disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

March 08, 2019

pankaj baweja

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