

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****240****FAO-2610-2009 (O&M)****Date of Decision : 21.05.2025**

New India Assurance Co. Ltd.

....Appellant

VERSUS

Juhari and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. Sandeep Suri, Advocate for respondent No.9.

ALKA SARIN, J. (Oral)

1. Present appeal has been filed by the Insurance Company aggrieved by the award dated 17.11.2008 passed by the Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as the 'Tribunal') whereby liability has been fastened to the extent of 50% on both the Insurance Companies.

2. Learned counsel for the appellant would contend that the deceased was a pillion rider of a motorcycle and the insurance policy did not cover the pillion rider and hence the liability could not have been fastened upon the appellant-Insurance Company.

3. *Per contra* learned counsel for respondent No.9-Insurance Company would contend that no such plea was raised in the written statement or argued before the Tribunal. Infact, no issue was framed qua the same.

4. Heard.

5. In the present case a totally new case is being made out by the appellant herein inasmuch as it has been argued that the pillion rider was not covered in the insurance policy. The said fact was neither taken as a defence in the written statement nor any issue in this regard was framed. Infact, the said argument was also not raised before the Tribunal.

6. In view of the above, I do not find any merit in the present appeal and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

21.05.2025

jk

**(ALKA SARIN)
JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO