

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.7580 of 2015 (O&M)

Date of Decision: 30.05.2018

Shanti Devi and others

.....Appellants

Vs.

Deepak Singh and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms.Harpreet Kaur, Advocate, for
Mr.Amit Jain, Advocate, for the appellants.

RITU BAHRI, J. (ORAL)

CM No.23956-CII of 2015

For the reasons stated in the application, delay of 18 days in
refiling the appeal is condoned.

Application stands disposed of.

CM No.23957-CII of 2015

For the reasons stated in the application, delay of 72 days in filing
the appeal is condoned.

Application stands disposed of.

Main Case

Present appeal has been preferred by the claimants-appellants (for
short 'the appellants'), against award dated 20.02.2015, passed by the learned
Motor Accident Claims Tribunal, Gurgaon (for short, 'the Tribunal') vide
which claim petition of the claimants has been dismissed.

The present claim petition has been filed under Section 163-A of
the Motor Vehicles Act and the deceased was borrower of the vehicle and
therefore, his legal heirs are not entitled to claim compensation under
Section 163-A of the Motor Vehicles Act, because the borrower will be
considered owner of the vehicle. A reference has been made in the case of

Ningamma Vs. United India Insurance Company Limited 2009 (13)

SCC 710 (SC), wherein the following observation is made as under:

“deceased met with an accident while driving the vehicle and died. Legal heirs are not entitled to claim under Section 163-A. Under this Section legal heirs of an owner of vehicle who is himself involved in the accident are not entitled to claim compensation. It is rather the owner of the vehicle himself or the insurance company who is liable to pay compensation to third party. In this case deceased borrowed motorcycle from the real owner and died in accident while driving the motorcycle. Deceased will be considered the owner of the motorcycle. His legal heirs are not entitled to maintain application for compensation under Section 163-A.”

In view of the above, present appeal is also not maintainable and the same dismissed as such.

(RITU BAHRI)
JUDGE

30.05.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No