

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

**FAO No.610 of 2006 (O&M)
Date of decision: 19.08.2019**

Nathu Ram and others

....Appellants

Versus

Ramesh Chander Arora and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Aashish Gupta, Advocate,
for the appellants.

Mr. Sanjiv Pabby, Advocate,
for respondent No.2-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed against the judgment/award dated 01.10.2005 passed by the Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') dismissing the claim petition under Section 163-A of the Motor Vehicle Act, 1988, filed by the claimant-appellants seeking compensation on account of death of Satbir due to injuries received by him in a motor vehicular accident which took place on 15.02.2002.

Brief facts of the case are that on 15.02.2002, Satbir (since deceased), after collecting installments of the LIC, was going towards Gurgaon on a scooter bearing No. DL-6SA-1230. At about 9.00 A.M., when he reached near Idol of Krishan Ji on N.H. No.8 in the area of village Narsinghpur, a vehicle came and struck against the scooter, as a result of which, Satbir fell down and sustained multiple grievous and serious injuries.

He was taken to Pushpanjali Hospital, Gurgaon, from where, he was shifted to Batra Hospital, Delhi, where he died. Respondent No.1 was owner of the scooter. With regard to the accident, FIR No.85 dated 16.02.2002, under Sections 279/304-A IPC was registered at Police Station, Sadar, Gurgaon. Consequently, claimant-appellants filed a claim petition before the Tribunal.

Upon notice, respondent Nos.1 & 2 filed their separate written statements and denied the allegations made by the claimants in their claim petition. Ultimately, prayer for dismissal of the claim petition was made.

From the pleadings of the parties, following issues were framed by the Tribunal:-

1. Whether the accident in question was caused by the use of scooter No.DL-6SA-1230 by deceased Sabtir? OPP
2. If, issue No.1 is proved, whether the claimants are entitled to any compensation on account of death of Satbir, if so, to what extent and from whom? OPP
3. Whether deceased was not having a valid and effective driving licence on the date of accident? OPR (2)
4. Whether respondent No.1 has violated the terms and conditions of the insurance policy? OPR (2)
5. Relief.

On the basis of evidence led by the parties, the Tribunal has returned finding on issue no.1 in favour of the claimant-appellants and held that the accident in question had taken place due to the use of scooter No. DL-6SA-1230 by deceased-Satbir. However, the claim petition has been dismissed on the ground that Satbir was having income of more than Rs.40,000/- per annum.

A perusal of the impugned judgment/award shows that claimants were not disputing the fact that income of the deceased was

deceased should be taken as Rs.40,000/- per annum. This fact has been examined by the Tribunal keeping in view the judgment passed by Hon'ble the Supreme Court in **Deepal Girishbhai Soni and others vs. United India Insurance Co. Ltd., Baroda**, 2004 (2) PLR 271 and dismissed the claim petition by observing that proceeding under Section 163-A of the Act being a social security provision, providing for a distinct scheme, only those whose annual income is upto Rs.40,000/-, can take the benefit thereof.

Since income of the deceased was more than Rs.40,000/- per annum, claim petition under Section 163-A of the Act in itself was not maintainable.

After hearing learned counsel for the parties and going through the impugned award, it is apparent that claimants have failed to lead any substantial evidence to prove their case. They have also failed to prove that the deceased was having income upto Rs.40,000/- per annum. After going through the impugned Award, this Court is of the view that in the absence of any cogent and convincing evidence, the Tribunal has rightly dismissed the claim petition. No ground is made out to interfere therein.

Resultantly, finding no merits, present appeal is dismissed.

(RITU BAHRI)
JUDGE

19.08.2019
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No