

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

FAO No.3699 of 2018 (O&M)

Date of decision: 16.11.2019

Balinder Singh and another

....Appellants

Versus

Narinder Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Mandeep Singh Khillan, Advocate,
for the appellants.

RITU BAHRI J. (Oral)

CM No.12974-CII of 2018

For the reasons mentioned in the application, same is allowed and delay of 27 days in filing of the appeal is condoned.

FAO No.3699 of 2018

This appeal is directed against the Award dated 08.09.2017 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') dismissing the claim petition filed by the claimant-appellants seeking compensation on account of death of their son namely Sompal in a motor vehicular accident which took place on 23.10.2015.

Brief facts of the case are that on 23.10.2015, Sompal (since deceased) had gone to village Munak Kheri on a motorcycle, make Bajaj Platina, bearing registration No. HR-05-W-6624. After completion of work, he was returning back to his village. When he reached near his village, suddenly, a *Nilgai* came in front of the motorcycle and due to this, the vehicle of Sompal struck against a tree, as a result of which, he (Sompal) received serious, grievous and multiple injuries. Later on, he succumbed to the injuries. With regard to the accident, DDR No.03 dated 28.10.2015 was

registered at Police Station, Nissing. Consequently, the claimant-appellants filed a claim petition under Section 163-A of the Motor Vehicle Act before the Tribunal.

After going through the entire evidence led by the parties, the Tribunal has dismissed the claim petition on the ground that the same was not maintainable. Hence, the present appeal.

Heard. A perusal of the impugned award shows that claimants-appellants have stated the deceased Sompal was earning Rs.20,000/- per month from doing tuition work. Balinder Singh (PW-1), Santosh Devi (PW-2) and Shamsheer Singh (PW-3), parents and uncle of deceased-Sompal had tendered their affidavits Ex.PW1/A to Ex.PW3/A respectively, wherein it was mentioned that monthly income of deceased Sompal was Rs.20,000/- per month. However, the claim petition was filed under Section 163-A of the Motor Vehicle Act. As per Second Schedule of the Act, annual income of the deceased (in claim petition under Section 163-A of the Act) should not be more than Rs.40,000/- per annum.

Accordingly, after going through the impugned Award, this Court is of the view that since annual income of deceased Sompal was more than Rs.40,000/-, claim petition under Section 163-A of the Act was not maintainable. As such, the Tribunal has rightly dismissed the claim petition filed by claimants-appellants. No ground is made out to interfere in the impugned award.

Dismissed.

(RITU BAHRI)
JUDGE

16.11.2019
ajp