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

FAO-15808-2018 (O&M)
Decided on : 13.12.2019

Sunita and others

. . . Appellant(s)

Versus

Parvesh and others

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ravinder Hooda, Advocate
for the appellant(s).

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MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by the claimants against the impugned award dated 16.08.2018, passed by the Ld. Motor Accidents claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal'), whereby, the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 (for brevity 'MV Act'), has been dismissed, by relying upon the decision of the Apex Court in ***Ningamma & Anr. Vs. United India Insurance Co. Ltd., (2009) 13 SCC 710***, holding that the deceased was not a third party but he was a borrower of the motorcycle.

Brief facts necessary for adjudication of the case are that on 17.04.2016, deceased Rajesh along with his brother Parvesh i.e. respondent No.1 was going on motorcycle bearing Registration No. HR-12Y-1925. Parvesh was driving the motorcycle while the deceased Rajesh was pillion riding. On reaching Ismaila, a car being driven rashly and negligently by its driver came at a very high speed and struck against the motorcycle. Resultantly, the deceased Rajesh fell on the road and received multiple grievous injuries. He was shifted to PGIMS, Rohtak, where he succumbed to his injuries. The deceased at the time of his death was 45 years of age.

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Learned counsel for the appellants/claimants has contended that even though the registered owner of the motorcycle in question was respondent No.2-Ramesh, still the deceased-Rajesh being a third party, his legal heirs would be entitled to claim compensation.

I have heard learned counsel for the appellants and reappraised the evidence and other material available on record.

In the case in hand, admittedly, both the driver-Parvesh (respondent No.1) and the deceased-Rajesh were borrowers of the vehicle involved in the accident and they stepped into the shoes of the owner. The Apex Court in ***Ningamma's case*** (supra) has dealt at length with the issue that the borrower of the vehicle cannot claim compensation under Section 163-A of the MV Act. Faced with this situation, learned counsel for the appellants has submitted that the case of the appellants/applicants thus be considered under Section 140 of the MV Act for 'No Fault Liability'.

In view of the above, it would be appropriate to invoke Section 140 of the MV Act and under the said provision, the appellants/claimants would stand entitled to Rs. 50,000/- for 'no fault liability' as provided, which would be paid by the insurer.

The instant appeal is disposed of accordingly.

(MANJARI NEHRU KAUL)
JUDGE

December 13, 2019

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*

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