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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-240-2014

Date of Decision: 19.09.2022

REENA & ORS

..... Appellants

Versus

PREM SINGH CHAUHAN & ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Sagar Aggarwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellants.

Mr. Rajneesh, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

1. The appellants through instant appeal are seeking setting aside of award passed by learned Motor Accident Claims Tribunal (for short 'Tribunal'), Bhiwani, whereby learned Tribunal has dismissed the claim petition filed by the appellants/claimants.

2. The brief facts emerging from record are that on 09.02.2011 Harender (deceased) met with an accident while he was driving his car. A DDR No.32 was lodged at Police Station Sadar, Charkhi-Dadri and proceedings under Section 174 Cr.P.C. were conducted. The appellants filed petition under Section 163-A of the Motor Vehicles Act, seeking compensation on account of death of Harender. The appellants claimed compensation of Rs.1 crore alongwith interest @ 18% per annum.

3. Learned Tribunal dismissed the petition of the appellants on

two counts namely (i) income of deceased is claimed more than 40,000/- per annum, thus, petition is not maintainable under Section 163-A of the Motor Vehicles Act and (ii) there is no third party and petition has been filed against insurer of the vehicle which deceased was driving and he was owner of that vehicle and as per judgments of Hon'ble Supreme Court in *National Insurance Company Ltd. Versus Sinitha and others, 2012 (1) RCR (Civil) (SC) 205 and Ningamma and another Versus United India Insurance Co. Ltd. 2009 ACJ (SC) 2020*, petition is not maintainable under Section 163-A of the Act.

4. Learned counsel for the appellant contended that learned Tribunal has wrongly dismissed claim petition on the ground that income of deceased was more than Rs.40,000/- per annum whereas, there are so many judgments holding the field that even though income is claimed more than Rs.40,000/- per annum, Tribunal can entertain petition under Section 163-A of the Act.

5. Per contra, learned counsel for the insurer pleaded that appellant is missing substantial fact that learned Tribunal has dismissed appeal not only on the ground that there is claim of income of deceased more than Rs.40,000/- per annum, there is also finding of learned Tribunal that in view of judgments of Hon'ble Supreme Court in **Sinitha case's (Supra)** and **Ningamma case's (supra)**, petition was not maintainable under Section 163-A of the Act.

6. On being confronted with judgments of Hon'ble Supreme Court in **Sinitha case's (Supra)** and **Ningamma case's (supra)**, learned counsel for the appellants expressed his inability to cite any contrary judgment or controvert the afore-cited judgments.

7. In view of the judgments of Hon'ble Supreme Court in **Sinitha case's (Supra)** and **Ningamma case's (supra)**, there is no ground to interfere and accordingly appeal is dismissed, however, the appellants are at liberty to file petition under Section 140 of the Motor Vehicles Act, 1988, in accordance with law.

(JAGMOHAN BANSAL)
JUDGE

19.09.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>