

210.

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

FAO No.1010 of 2014 (O&M)

Date of decision:27.01.2016

Oriental Insurance Company Limited

... Appellant

versus

Gogi and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Ashwani Talwar, Advocate,
for the appellant.

Mr. D.S. Gurna, Advocate,
for respondents 1 to 6.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The objection by the Insurance Company is that in a claim made under Section 163-A of the Motor Vehicles Act on a plea that the deceased was earning ₹30,000/- per year modified it suo motu as an award under Section 166 of the Motor Vehicles Act and reckoned the income as ₹72,000/- per year. The case was an instance of a person sitting on the mudguard of a tractor. It is doubtful whether such a claim could be pursued under Section 166 and if the Insurance Company did not object to the award being

passed under Section 163-A as resultant to the use of a vehicle, I can find a justification for an award only under Section 163-A on the basis of what is contended by the insurer and find no legal support for passing an order under Section 166.

2. The award can be sustained therefore only for a claim under Section 163-A and if the formula under Schedule-II is applied by applying a multiplier of 13 instead of 12 as taken by the Tribunal, the amount payable will be ₹3,21,500/-. Any amount ordered in excess is liable to be refunded. This court has already allowed for stay of disbursement for 50% and the remaining 50% to be disbursed to the claimants on furnishing of adequate security. The security will be deposited for an amount of ₹3,21,500/- referred to above and the rest of the amount, if it is still in excess of what has been awarded through the order shall be permitted to be recovered by the insurer and, if need be, by enforcement of the security for the excess amount over the aforesaid amount.

3. Appeal stands disposed of as above.

(K.KANNAN)
JUDGE

27.01.2016
sanjeev