

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

FAO No. 4204 of 2013 (O&M)

Date of decision: 22.03.2016

United India Insurance co. Ltd.

... Appellant.

versus

Jatinder Kaur and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Suvir Dewan, Advocate for the appellant.

Mr. Ashwani Arora, Advocate for the respondents.

K.Kannan, J. (ORAL)

The appeal is against the award of compensation by the insurer complaining that in a petition under Section 163-A of Motor Vehicles Act the Tribunal has allowed for notional income @ Rs. 3,200/- for a student who was a non-earning member. This according to him is against the scheme of Section 163A which pegs the notional income @ Rs. 1,600/-.

I find the contention to be well founded. This is a case where the death was of a pillion rider and he was a student in Engineering. The claimant was the mother. It should have been perfectly possible for a claim to have been made even under Section 166, for, no negligence could have been attributed to the pillion rider and the accident and the resultant death as far as the deceased was concerned must have been taken as an instance of res ipsa loquitur situation.

In a claim under Section 166, it shall be perfectly

competent for Courts to adopt the income which is commensurate with the educational attainments, social and economic status and the likely expectation of contribution from the deceased to the family as relevant. The Tribunal has assessed the income at Rs. 3,200/- and applied 1/3rd deduction and assess the compensation of Rs. 4,14,100/-. This cannot be taken to be too high for intervention in appeal, considering the nature of accident and claim made.

I maintain the award by treating the case as one that could have been disposed of even under Section 166 and the Insurance Company ought not to be taken seriously as aggrieved by such assessment.

The appeal is dismissed.

(K.KANNAN)
JUDGE

22.03.2016

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