

FAO-2011-2017 (O&M)

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

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**FAO-2011-2017 (O&M).
Decided on: July 4, 2017.**

Reliance General Insurance Co. Ltd.

.. Petitioner(s)

VERSUS

Gurjit Kaur and others

.. Respondent(s)

*** * ***

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

*** * ***

**PRESENT Mr.Sanjeev Kodan, Advocate,
for the petitioner.**

M.M.S. BEDI, J. (ORAL)

Vide order dated 14.2.2017, an application for claim under Section 166 of the Motor Vehicles Act, filed by the respondents on account of death of Jagir Singh in an accident has been allowed granting Rs.4,28,000/- as compensation accepting the plea of the respondents to the extent that the deceased was earning sum of Rs.6,000/- and was aged 62 years. Applying the multiplier of 7 and considering the number of dependants, the quantum of compensation appears to be reasonable but counsel for the petitioner had submitted that while deciding issue no.1 the Tribunal has committed an error in relying upon the statement of eye witness CW.2 Joga Singh who is son of the deceased and was allegedly following the deceased on a bicycle when the driver of the vehicle bearing

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No.JK-02-BG-8878 hit the cycle of the deceased as a result of which he died on the spot. The various circumstances i.e. registration of the DDR, the medical evidence in the shape of post mortem report and the statements of the police officials were relied upon to hold that the deceased had died on account of rash and negligent driving of the car.

Counsel for the petitioner has vehemently contended that in the cross-examination, eye-witness has stated that he came to know about the accident on receiving the phone call. The statement has been taken into consideration by the Tribunal considering the same to be not sufficient enough to disbelieve the testimony of the eye-witness.

Counsel for the petitioner has further contended that when an application under Section 166 of the Motor Vehicles Act is filed, the rash and negligent driving of the offending vehicle has to be established but if the claim petition is filed under Section 163-A of the Motor Vehicles Act, the wrongful act or negligence or default of the driver or the owner is immaterial.

I have heard the counsel for the petitioner and gone through the judgment passed by the Tribunal and I am of the opinion that as per Section 163-A of the Motor Vehicles Act, it is always open to a person to claim compensation under Section 140 and 163-A of the Motor Vehicles Act. So far as Section 166 of the Motor Vehicles Act is concerned, it is no doubt correct that remedy for payment of compensation both under Sections 163-A and 166 of the Motor Vehicles Act is not permitted as both the remedies are independent of each other as per the statute. A claimant is not

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entitled to pursue his remedy simultaneously under Section 163A and under Section 166 of the Motor Vehicles Act. A perusal of Section 166 of the Motor Vehicles Act, indicates that damages can be claimed in case the accident is caused on account of wrongful act of the driver of the offending vehicle. I do not find any ground to interfere in the order which is just and proper by reappreciation of evidence as claimed by the petitioner.

No ground is made for interference.

Dismissed.

(M.M.S. BEDI)
JUDGE

July 4, 2017.
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Whether speaking / reasoned	Yes / No
Whether reportable:	Yes / No