

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

FAO No.5855 of 2016 (O&M)
Date of decision: 24.05.2018

Pala Ram

.... Appellant

Versus

Satbir and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.D.S.Nain, Advocate
for the appellant.

Avneesh Jhingan, J.

The present appeal has been filed against award dated 08.07.2015 passed by Motor Accidents Claims Tribunal, Kaithal (hereinafter referred to as 'the Tribunal').

The grievance is that the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act') was dismissed on the ground that the annual earning of the deceased was more than Rs.40,000/-per annum.

Learned counsel for the appellant contended that the deceased was working as a cleaner in a truck. The Tribunal ought to have put a cap at Rs.40,000/- thereafter calculating the compensation. The said contention cannot be accepted.

Supreme Court in case of **Deepal Girishbhai Soni and others Vs. United India Insurance Co. Ltd., Baroda, 2004 (5) SCC 385**, has held that claim under Section 163-A of the Act can only be made where the deceased is having earning less than Rs.40,000/- per annum. This figure of

Rs.40,000/- cannot be used as a cap. The relevant portion of the said judgment is quoted as below:-

*“We, therefore, are of the opinion that **Oriental Insurance Co. Ltd. Vs. Hansrajhai V.Kodla and others, (2001) 5 SCC 175** has correctly been decided. However, we do not agree with the findings in Kodala (supra) that if a person invokes provisions of Section 163-A, the annual income of Rs. 40,000/- per annual shall be treated as a cap. In our opinion, the proceeding under Section 163-A being a social security provision, providing for a distinct scheme, only those whose annual income is upto Rs.40,000/- can take the benefit thereof. All other claims are required to be determined in terms of Chapter XII of the Act.”*

The appeal is dismissed.

(AVNEESH JHINGAN)
JUDGE

24.05.2018

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1. Whether the order is speaking/reasoned: Yes/No

2. Whether the order is reportable : Yes/No