

**(2001) 12 P&H CK 0106**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** First Appeal From Order No. 4199 of 2001

National Insurance Company  
Ltd.

APPELLANT

Vs

Veena Devi and Others

RESPONDENT

**Date of Decision:** Dec. 10, 2001

**Acts Referred:**

- Motor Vehicles Act, 1939 - Section 166

**Citation:** (2002) 2 RCR(Civil) 633

**Hon'ble Judges:** Jawahar Lal Gupta, J; Ashutosh Mohuntha, J

**Bench:** Division Bench

**Advocate:** Ravinder Arora, for the Appellant;

**Final Decision:** Dismissed

**Judgement**

Jawahar Lal Gupta, J.

Has the Motor Accident Claims Tribunal erred in granting a compensation of Rs. 3,84,000/- alongwith interest on account of the death of Santosh Kumar, a young man of about 35 years ? This is the short question that arises for consideration in this appeal filed by the insurer.

2. Admittedly, the deceased was working with M/s Dhillon Kool Drinks and Beverages Limited. After unloading the crates of bottles he was in the process of getting into the truck. The driver started it. Santosh Kumar fell down and was run over. The widow and the minor children alongwith the mother of deceased filed a claim petition.

3. The Tribunal after examination of the evidence, has found that the deceased was drawing a monthly salary of Rs. 2,500/- He was about 35 years of age. The accident had occurred on account of the negligence of the driver of the vehicle. After applying a cut of Rs. 500/-, the monthly dependency was fixed at Rs. 2,000/-. With a multiplier of "16", the compensation of Rs. 2,84,000/- has been awarded. The

Tribunal has also held the claimants entitled to the payment of interest at the rate of 9 percent.

4. The solitary contention raised by the learned counsel for the insurer is that the amount of Rs. 60,000/-, which had been paid by the employer to the family of the deceased, should have been deducted from the compensation, as this was a compensation under the Workmen's Compensation Act, 1923.

5. The contention cannot be accepted. It has been found as a fact that there was no claim made by the claimants under the Workmen's Compensation Act, 1923. the ex gratia payment by the employer to the bereaved family, cannot entitle the insurer to claim any deduction. Still further, in the circumstances of the case, we find that the Tribunal has taken a conservative view regarding the income of the deceased. In fact, it is difficult these days to find a person for a salary of Rs. 80/- per day.

6. No other point has been raised.

7. In view of the above, we find no ground to interfere.

8. The appeal is, consequently, dismissed in limine.

Sd/- Ashutosh Mohunta, J.