**(2013) 07 P&H CK 0423**

**In the Punjab And Haryana At Chandigarh**

**Case No :** F.A.O. No. 266 of 2013 (O and M)

National Insurance Company Ltd. — APPELLANT

Vs

Smt. Renu Devi and Others — RESPONDENT

**Date of Decision :** 17-07-2013

**Acts Referred:**
Motor Vehicles Act, 1988 — Section 166

**Citation :** (2013) 07 P&H CK 0423

**Hon'ble Judges :** Vijender Singh Malik, J

**Bench :** Single Bench

**Advocate :** S.P. Dhamija, for the Appellant; Ashwani Arora, Advocate for respondents No. 1 to 4 and None for respondents No. 5 and 6, for the Respondent

**Final Decision :** Dismissed

## Judgement

Vijender Singh Malik, J.

CM No. 1643-CII of 2013

1. Delay of 69 days in filing the appeal is condoned for the reasons mentioned in the application.

FAO No. 266 of 2013

This is an appeal brought by National Insurance Company Ltd., the insurer against the award dated 04.08.2012 passed by learned Motor Accidents Claims Tribunal, Chandigarh (for short ''the Tribunal''). The claim petition had been brought by Smt. Renu Devi and others, the dependents of Nand Kishore, u/s 166 of the Motor Vehicles Act, 1988, which has been allowed by the Tribunal vide the impugned award in a sum of Rs. 13,40,000/- with interest @ 6% per annum.

2. The only grievance of the appellant in this case is regarding the income of the deceased. Learned counsel for the appellant has submitted that as per the income tax return of the deceased, his income was Rs. 1,47,233/- after paying tax. According to him, there was no reason for the Tribunal to have assessed the

income at any amount above Rs. 12,270/- per month but the learned Tribunal has fallen in error in taking the income of the deceased at Rs. 15,000/- per month. He has further submitted that in this way, the Tribunal has awarded excessive amount as compensation in favour of the claimants.

3. Learned counsel for the claimants-respondents No. 1 to 4, on the other hand, has submitted that taking of income of the deceased by the Tribunal at Rs. 15000/- is not in any way illegal. According to him, even if the income of the deceased is taken at Rs. 12,270/-, which would be the monthly income, taking the annual income at Rs. 1,47,233/-, at least, there should be an increase of 15% in his salary as the deceased was 54 years of age. If that is taken then the income would again go to Rs. 15000/- per month. Though learned Tribunal has not undertaken any such exercise to increase the income by 15% on account of future prospects, yet learned Tribunal has taken the income of the deceased at Rs. 15,000/- per month, which cannot be found to be at a higher side because a person, who was earning Rs. 12,270/- per month on the date of the accident would at least get some increase in his salary in future. Therefore, learned Tribunal has rightly taken the income of the deceased at Rs. 15,000/- per month. The compensation calculated thereon is, thus, found to carry no fallacy. Therefore, there is no merit in the appeal and the same is dismissed.