

Motor Vehicles Act, 1988 (59 of 1988) Section 166 – Income – Deceased was stated to have been employed in a proprietary concern on a monthly salary of Rs. 9600/- – The sole proprietor of the concern was examined and the salary certificate was marked as Ex.PW – The Tribunal which had the benefit of recording the evidence and which consequently had the benefit of observing the demeanour of the witness, specifically recorded a finding that there was no reason to discard the said testimony – On the ground that in the absence of salary vouchers and other records including income tax returns, the salary certificate and the oral testimony of the employer could not be accepted, High Court proceeded to take the minimum wages paid for the unskilled workers at the relevant point of time as the benchmark – Witness has to a specific question in cross-examination, seem to have replied that his business establishment had been wound up and that the records are not available – This cannot be a ground for the High Court to hold that the testimony is unacceptable – High Court ought to have appreciated that the Court of first instance was in a better position to appreciate the oral testimony and so long as the oral testimony remained unshaken and hence believed by the Court of first instance, the High Court ought not to have rejected his evidence – High Court ought not to have chosen a theoretical presumption relating to the minimum wages fixed for unskilled employment – Interference made by the High Court with the findings of the Tribunal with regard to the monthly income of the deceased, was uncalled for – Income taken at Rs. 9600/- instead of Rs. 3683/-.

**2020 PLRonline 9092, 2020 SCeJ 289**

**MOHAMMED SIDDIQUE V. NATIONAL INSURANCE COMPANY LTD., 2020 PLRonline 9092, 2020 SCeJ 289**