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HIGH COURT OF CHHATTISGARH AT BILASPUR**MISC. APPEAL NO. 385 OF 2006**

1. Smt. Ranjana Mahawar, age 53 years, W/o Late Shri Ramkrishna Mahawar, R/o C-7, Tagore Nagar, Raipur (C.G.)
2. Shri Abhishek Mahawar, age 32 years, S/o Late Shri Ramkrishna Mahawar, R/o C-7, Tagore Nagar, Raipur (C.G.)
3. Shri Abhinav Mahawar, age 27 years, S/o Late Shri Ramkrishna Mahawar, R/o C-7, Tagore Nagar, Raipur (C.G.)

... Appellants**Versus**

1. Jagdeo Singh Garcha, S/o Late Nagendra Singh Garcha, C/o Raipur Scooters, M.G. Road, Raipur (C.G.)
2. The New India Assurance Co. Ltd., Divisional Office No.2, R.D.A. Building, Bajrang Market, G.E. Road, Raipur (C.G.)
3. Shri Mohammed Shaffique, S/o Shri Abdul Aziz, Sadar Road, Nawapara Rajim, District Raipur (C.G.)
4. Phagulal Gada, S/o Bhagturam Gada, C/o Shri Mohammed Shafique, Sadar Road, Nawapara Rajim, District Raipur (C.G.)
5. The New India Assurance Co. Ltd., through Divisional Manager, Divisional Office No.2, R.D.A. Building, Bajrang Market, G.E. Road, Raipur (C.G.)

... Respondents

For Appellants	:	Mr. Sachin Singh Rajput, Mr. Goutam Khetrapal and Mr. S.K. Kushwaha, Advocates.
For Respondents 2 & 5	:	Mr. Prasanjeet Dutta, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****24/08/2017**

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, filed by the Claimants, assailing the award dated 22.12.2005 passed by the Thirteenth Additional Motor Accident Claims Tribunal (F.T.C.), Raipur, in Claim Case No. 63 of 2005.
2. Vide the said impugned award, the Tribunal in a proceeding under Section 163A of the Motor Vehicles Act has awarded a compensation of Rs. 3,02,900/- with interest thereon at the rate of 6% per annum payable from the date of filing of the claim case till realization of compensation.

3. The present appeal has been filed by the Appellants-Claimants seeking enhancement of the compensation awarded by the Tribunal, on the ground that the interest awarded ought to have been at the rate of 12% per annum instead of 6%. Further, according to the Claimants, the depositing of Rs. 2,10,000/- in a fixed deposit for 5 years also is not proper. In addition, they have prayed for suitable enhancement of the compensation under the other heads as well.

4. Learned Counsel for Respondent-Insurance Company however referring to the Schedule of the Motor Vehicles Act submits that since it is the claim under Section 163A of the said Act, the award of the Tribunal is just and reasonable and does not warrant any interference. According to the Insurance Company, the calculation made by the Tribunal is strictly in accordance with the Second Schedule of the Motor Vehicles Act and therefore there is no further scope of any enhancement in the compensation awarded.

5. Having considered the rival contentions put forth on either side and on perusal of the record, what is undisputed from the records is that the Tribunal for the purpose of quantifying of compensation has accepted the wages of the deceased to be Rs.40,000/- which is the maximum of the wages which could be taken into consideration by the Tribunal as per the Schedule of the Motor Vehicles Act. Further, even the compensation given under the different heads would show that the Tribunal has awarded the maximum which could be awarded under the Schedule of the Motor Vehicles Act.

6. So far as the fix depositing of the amount of compensation is concerned, by efflux of time the said issue has become infructuous.

7. In view of the aforesaid factual matrix of the case, no strong case has been made out by the Appellants-Claimants to call for any interference with the impugned award, considering the fact that the claim filed by them itself was one under Section 163A of the Motor Vehicles Act.

8. The appeal thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

/sharad/