**NAFR**

**HIGH COURT of CHHATTISGARH, BILASPUR**

**MAC No. 431 of 2008**

1. Smt. Minoti Chakrovorty W/o Shri BN Chakrovorty, aged about 58 years,
2. Utpal Kumar Chakrovorty S/o Shri Late B.N. Chakrovorty, aged 41 years,
   Both R/o Babupara, Jail Road, Ambikapur, District - Surguja (C.G.).

**---- Appellant**

**Versus**

1. Branch Manager, United India Insurance Company Ltd. Branch Office, Near Ram Mandir, Ambikapur, PS & Tehsil Ambikapur, Distt. Surguja (CG).
2. Satyanarayan Agrawal S/o Shri Laxminarayan Agrawal, R/o Genhubadi, Jain Road, Ambikapur, District - Surguja ( C.G.)

**---- Respondents**

| | | |
|---|---|---|
| For Appellants | : | Shri Sanjay Agrawal, Advocate. |
| For respondent No.1 | : | Shri HB Agrawal, Sr. Advocate along with Shri Dashrath Gupta and Shri Pankaj Agrawal, Advocates. |

**SB: Hon'ble Shri Justice P. Sam Koshy**

**Judgment On Board**

**24.10.2017.**

1. The present is an appeal filed by the claimants seeking enhancement of compensation under Section 173 of the Motor Vehicles Act (for short, the MV Act) against the award dated 27.12.2007 passed by the 2nd Additional Motor Accident Claims Tribunal, Ambikapur (for short, the Tribunal) in Claim Case No.5 of 2006.
2. The facts of the case is that, on 29.06.2006 when Devashish Chakravorty was travelling on his Maruti Alto Car bearing registration No.CG-15-B-0847, the said Car turned turtle resulting in grievous injuries in the said accident to which he later succumbed.
3. The legal representatives of the deceased filed a claim application

under Section 166 of the MV Act which got adjudicated upon by the impugned award dated 27.12.2007. While passing the award, the Tribunal has rejected the claim application holding that all that the claimants would be entitled for an amount of Rs.50,000/- under the provisions of No Fault Liability under Section 140 of the MV Act.

4. Initially the Tribunal has allowed the application under Section 140 of the MV Act which was challenged by the insurance company vide MAC No.625 of 2007. The said appeal was subsequently withdrawn by the insurance company on 18.11.2016 with a liberty to file cross objection in the appeal which has been preferred by the claimants. The insurance company has subsequently preferred cross objection in the present appeal under Order 41 Rule 22 CPC along with an application for condonation of delay.

5. A perusal of the records indisputably show that the accident had occurred when the deceased, who owned the vehicle, was himself driving the Car and deceased having lost control over the vehicle, it turned turtle resulting in his death. Thus, it is an accident which did not involve another vehicle as it was not because of collision between two vehicles. Since the deceased himself was driving the vehicle at the time of accident, there was no other person who could be attributed for the negligence for the accident to take place. Since it is a case where there was no negligence of any third person or third party or any other vehicles, the claim application of the claimants have rightly been rejected by the Tribunal confining the payment of compensation to the claimants at Rs.50,000/- which is the minimum amount under no fault

liability which could be awarded.

6. This court does not find any illegality or perversity on the said finding arrived at by the Tribunal while passing the impugned award confining the amount of compensation at Rs.50,000/- i.e. an amount which is paid under the provisions of Section 140 of the MV Act under no fault liability.
7. In the given factual matrix of the case, this court does not find any strong ground made out by the appellant calling for an interference with the impugned award.
8. Accordingly, the appeal fails and is dismissed. Cross objection filed by the insurance company also for the aforesaid reasons stands rejected.

Sd/-
(P.Sam Koshy)
**Judge**

inder