

HIGH COURT of CHHATTISGARH, BILASPUR
MAC No. 1337 of 2007

Smt. Radhbai & Ors.

Vs.

Ramesh Panjwani & Anr.

For Appellant	:	Shri Shivendu Pandya, Advocate.
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SB: Hon'ble Shri Justice P. Sam Koshy
Order On Board

16/11/2017

1. This is claimant's appeal under Section 173 of the Motor Vehicles Act against the award dated 24.08.2007 passed by the 9th Additional Motor Accident Claims Tribunal (FTC) Raipur, (in short, the Tribunal) in Claim Case No.34/2007. Vide the impugned award, the Tribunal has rejected the claim application of the claimants as not maintainable since the claimants had pleaded the income of the deceased more than Rs.40,000/- which was the maximum capping under the Schedule of the Motor Vehicles Act.
2. Learned counsel for the appellants submits that even if the claimants have pleaded more than Rs.40,000/- to be salary of the deceased, the Tribunal should have calculated the compensation taking the maximum of Rs.40,000/- as his salary and thereafter should have proceeded to decide the claim application inspite of rejecting it as not maintainable.
3. The issue raised by the appellants in the instant appeal is no longer res integra in view of recent decision of co-ordinate Bench of this

High Court in case of Oriental Insurance Co.Ltd. Vs. Swatatra Kumar Verma & Ors.2017(1)TAC 538 (CG), in which relying upon the decisions of Supreme Court in cases of Deepal Girishbhai Soni Vs. United India Insurance Co.Ltd.2004(5)SCC 385 and also Oriental Insurance Co.Ltd. Vs. Hansrajbhai V. Kodala,2001(5)SCC 175, the co-ordinate Bench has held that an application under Section 163-A is not maintainable if the claimants have pleaded the income to be more than Rs.40,000/- annually.

4. This court is inclined to accept the analogy laid by the co-ordinate Bench of this High Court in the said judgment and as a result this court holds that the Tribunal has not committed any error while rejecting the claim application and the appeal is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

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