

HIGH COURT OF CHHATTISGARH AT BILASPUR

Misc. Appeal (C) No. 403 of 2017

1. Smt. Nirmala Devi W/o Late Dharmbeer Paswan, aged about 35 years, R/o Village Gheura, P.S. Risiap, District Aurangabad (Bihar)
2. Khushbu Kumari D/o Late Dharmbeer Paswan, aged about 17 years, Minor through natural guardian mother Smt. Nirmala Devi W/o Late Dharmbeer Paswan, R/o Village Gheura, P.S. Risiap, District Aurangabad (Bihar)
3. Kajal Kumari D/o Late Dharmbeer Paswan, aged about 15 years, Minor through natural guardian mother Smt. Nirmala Devi W/o Late Dharmbeer Paswan, R/o Village Gheura, P.S. Risiap, District Aurangabad (Bihar)
4. Prince Kumar S/o Late Dharmbeer Paswan, aged about 12 years, Minor through natural guardian mother Smt. Nirmala Devi W/o Late Dharmbeer Paswan, R/o Village Gheura, P.S. Risiap, District Aurangabad (Bihar)
5. Piyush Kumar S/o Late Dharmbeer Paswan, aged about 7 years, Minor through natural guardian mother Smt. Nirmala Devi W/o Late Dharmbeer Paswan, R/o Village Gheura, P.S. Risiap, District Aurangabad (Bihar)

---- Appellants

Versus

1. Mitthu Ram Rajwade S/o Naynath Rajwade, R/o Village Belpara, Gadeshpur, P.S. & Tahsil Lakhanpur, District Surguja, Chhattisgarh(Vehicle Owner)
2. Branch Manager, United India Insurance Company Limited, Branch Office Brahmaroad, near Kumkum Hotel, Ambikapur, P.S. & Tahsil Ambikapur, District Surguja, Chhattisgarh(Insurance Company)

---- Respondents

For Appellants	:	Mr. C. Jayant K. Rao, Advocate.
For Respondent no.1	:	Mr. Jitendra Shrivastava, Advocate.
For Respondent no.2	:	Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14/07/2017

The present is an appeal under Section 173 of the Motor Vehicles Act filed by the claimants assailing the award dated 10.01.2017 passed by the Motor Accident Claims Tribunal, Ambikapur in Motor Accident Claim No. 137 of 2016. Vide the impugned award, the Claims Tribunal has on an application filed by the claimants under Section 163A of the MV Act

awarded a compensation of Rs.3,87,500/- to the claimants. The Tribunal while passing the impugned award has fastened the liability upon the Insurance Company which had insured the offending vehicle.

2. The contention of the counsel for the appellants is that the amount of compensation awarded by the Claims Tribunal under the other heads is too meager amount and the same deserves to be enhanced. According to the counsel for the appellants, for an accident that took place in August, 2015 and the subsequent expenses which had to be incurred by the claimants, the amount quantified under the heads of loss of estate, loss of consortium and love and affection by the Tribunal was too paltry an amount deserving enhancement. Thus, this appeal.

3. What is relevant to be taken note of at this juncture is that the claim case was under Section 163 A of the Motor Vehicles Act where the calculation for compensation has to be strictly in accordance with the second Schedule of the MV Act. The law so far as the claim under Section 163A of MV Act is concerned, the same is by now well settled where it has been reiterated by a catena of decisions of the Supreme Court that the calculation for grant of compensation under Section 163A of the MV Act has to be strictly in accordance with the Second Schedule of the Motor Vehicles Act and it cannot be beyond the said provision. The said Act specifically holds that it shall not be applicable in a case where the income of the deceased at the relevant point of time would have been more than Rs.40,000/- and the maximum wage which could be taken into consideration for quantifying the compensation is Rs.40,000/- which in the instant case has been applied. Likewise, the amount of compensation granted under the head of funeral expenses, loss of consortium and loss of estate has been strictly in accordance with the second Schedule and as such, the same cannot be said to be erroneous in any manner.

4. Considering the fact that it was a case under Section 163A of the MV Act and the calculation made by the learned Claims Tribunal being purely in accordance with the provisions of second Schedule of the MV Act, this Court finds it difficult to entertain the appeal for modification of the impugned award as the same is strictly in accordance with the provisions of the Act.
5. Thus, the appeal being devoid of merits, deserves to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
Judge