**(2014) 01 TP CK 0003**

**In the Tripura High Court**

**Case No :** M.A.C. App. 34 of 2007

# Shri Harendra Deb Barma and Smti Kanya Rani Deb Barma VsThe Commandant,59 Bn.,B.S.F.

**Date of Decision :** 08-01-2014

**Acts Referred:**
Motor Vehicles Act, 1988 — Section 163, 163A

**Citation :** (2014) 01 TP CK 0003

**Hon'ble Judges :** Deepak Gupta, C.J

**Bench :** Single Bench

**Advocate :** M.K. Roy, Advocate for the Appellant; A. Lodh, Advocate for the Respondent

**Final Decision :** Disposed Off

## Judgement

Deepak Gupta, C.J.—The claimants have filed this appeal challenging the award of the learned Motor Accident Claims Tribunal, West Tripura, Agartala, whereby a sum of Rs. 1,53,000/- has been awarded to the claimants u/s 163A of the Motor Vehicle Act.

2. The main grievance of Mr. Roy, is that no deduction of 1/3rd could have been made after assessing the compensation payable u/s 163 of the Motor Vehicles Act. He has relied upon the judgment of the Apex Court in Manju Devi and another v. Musafir Paswan and another reported in Manju Devi and Another Vs. Musafir Paswan and Another wherein in the case of a 13 year old boy the Apex Court held that the income should be taken to be Rs. 15,000/- and multiplier of ''15'' should be used and finally awarded compensation of Rs. 2,25,000/-.

3. The Apex Court has not laid down any proposition of law that no deduction has to be made. It is also clear that the attention of the Apex Court was not drawn to the note below the second schedule to Section 163A of the Motor Vehicle Act, which reads as follows:

Note:- The amount of compensation so arrived at in the case of fatal accident claims shall be reduced by 1/3rd in consideration of the expenses which the victim would have incurred towards maintaining himself had he been alive.

4. The law is very clear that once compensation is being assessed in terms of Section 163A of the Motor Vehicle Act, it has to be assessed as per the schedule and when the schedule itself provides that 1/3rd of the compensation assessed has to be deducted for the personal expenses of the deceased, the learned Tribunal was fully justified in taking the notional income of the deceased to be Rs. 15,000/- applying the multiplier of ''15'', assessing the compensation at Rs. 2,25,000/- and deducting Rs. 75,000/- for the personal expenses of the deceased.

5. The only error is that in addition to the sum of Rs. 2,000/- awarded as funeral expenses, Rs. 2,500/- had to be awarded as loss to the estate and Rs. 1,000/- for medical expenses. Therefore, the award should have been Rs. 1,56,500/- and not Rs. 1,53,000/-. The award is accordingly enhanced by Rs. 3,500/-.On this enhanced amount of Rs. 3,500/- the insurance company shall also be liable to pay interest @ 6% per annum from the date of filing of the claim petition till deposit thereof in the Registry of this Court within 2 (two) months from today.

6. The appeal is thus disposed of in the aforesaid terms.

Send back the LCRs forthwith.

 