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IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE  
HON'BLE SHRI JUSTICE VIVEK AGARWAL

ON THE 9<sup>th</sup> OF NOVEMBER, 2022

**MISC. APPEAL No. 2117 of 2002**

**BETWEEN:-**

GANDHARV SINGH S/O SHRI PHOOLAN SINGH,  
AGED ABOUT 52 YEARS, R/O VILLAGE  
TIRMUDA, TEHSIL BATIYAGARH, DISTRICT  
DAMOH (MADHYA PRADESH)

.....APPELLANT

(BY SHRI AKHILESH JAIN, ADVOCATE)

**AND**

1. GULLA CHAMAR S/O SHANKER CHAMAR,  
AGED ABOUT 60 YEARS, R/O VILLAGE  
TIRMUDA, TEHSIL BATIYAGARH, DISTRICT  
DAMOH (MADHYA PRADESH)
2. SMT. GULAB RANI W/O GULLA CHAMAR  
VILLAGE TIRMUDA TAHSIL BATIYAGARH  
(MADHYA PRADESH)
3. KAKU ALIAS KALYAN SINGH S/O SHRI  
PHOOLAN SINGH VILLAGE TIRWAUDA TAHSIL  
BATIYAGARH (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI DEEPAK PENDHARKAR, ADVOCATE )

.....  
*This appeal coming on for hearing this day, the court passed the  
following:*

**ORDER**

This Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988 is filed by appellant/non-applicant No.2 Gandharv Singh (Owner of Tractor bearing registration No.CPV 5346) being aggrieved of award dated 2.12.2002 passed by learned II Additional Motor Accident Claims Tribunal,

Damoh in Claim Case No.78/2002 awarding compensation by allowing application under Section 140 of the Motor Vehicles Act, 1988 on account of No Fault Liability and rejecting the application under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on merits vide order dated 31.7.2000.

It is submitted by learned counsel for the appellant that once application under Section 166 of the Motor Vehicles Act, 1988 was rejected by the Claims Tribunal then there was no justification for passing an award under Section 140 of the Motor Vehicles Act, 1988. He also submits that in the light of the law laid down by a Coordinate Bench of this Hon'ble High Court in **National Insurance Company Limited versus Smt.Tara 1994 (2) MPWN Short Note 219**, no interest on the amount of compensation awarded under Section 140 of the Motor Vehicles Act, 1988 is payable.

Learned counsel for the respondents supports the impugned award.

As far as the issue of payment of compensation under Section 140 of the Motor Vehicles Act, 1988 is concerned, it came to be discussed by Hon'ble the Supreme Court in **Eshwarappa Alias Maheshwarappa & Another versus C.S.Gurushanthappa & Another (2010) 8 SCC 620** wherein it is held that the provisions of Section 140 of the Motor Vehicles Act, 1988 are intended to provide immediate succour to the injured person or heirs and legal representatives of the deceased. Hence, normally, a claim under Section 140 of the Motor Vehicles Act, 1988 is made at the threshold of the proceedings and payment of compensation thereunder is directed to be made by interim award of the Tribunal, which may be adjusted if in the final award, the claimant is entitled to any larger amount but where a claim under Section 140 of the Motor Vehicles Act, 1988 was not made at the beginning of the proceedings due to ignorance of the claimant or no direction to make payment of compensation

under Section 140 of the Motor Vehicles Act, 1988 was issued due to oversight of the Tribunal, the claimant would still be entitled to compensation. The Apex Court not only granted compensation but directed the Insurance Company to pay to appellant the requisite amount alongwith simple interest.

When the ratio of law discussed by a Coordinate Bench of this Hon'ble High Court in **National Insurance Company Limited versus Smt.Tara (supra)** is examined in the light of the verdict of Hon'ble the Supreme Court in **Eshwarappa Alias Maheshwarappa & Another versus C.S.Gurushanthappa & Another (supra)** then it is evident that it is not the principle to not to award any interest on the amount of compensation granted under Section 140 of the Motor Vehicles Act, 1988 since the interim award was passed and that is adjustable against the final award, therefore, the Coordinate Bench of this Court held that no interest on the amount of interim award is payable but where final award is passed in terms of Section 140 of the Motor Vehicles Act, 1988 then that ratio will not be applicable and the interest will be payable as has been made applicable by Hon'ble the Supreme Court in **Eshwarappa Alias Maheshwarappa & Another versus C.S.Gurushanthappa & Another (supra)**. The reasoning is that the interim award will merge with the final award and the interest will be awarded while passing the final award but when the final award is passed under Section 140 of the Motor Vehicles Act, 1988 then it cannot be said that the final award will not carry any interest.

Accordingly, this Miscellaneous Appeal being devoid of merits is dismissed.

Let record of the Claims Tribunal be sent back.

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