

HIGH COURT OF CHHATTISGARH, BILASPUR**Miscellaneous Appeal No.983 of 2006**

Smt. Annapurna Chaini, aged about 52 years, earlier resident of Kaserpara Raigarh, at present resident of Beladula, near Devlal Chowk Raigarh, Tahsil and District Raigarh, Chhattisgarh

---- Appellant**versus**

1. Pramod Kumar Chaini (Dead) Through his Legal Heirs –
 - (a) Parmil Chaini D/o Late Pramod Kumar, aged about 27 years
 - (b) Kumari Priyanki Chaini d/o Late Pramod Kumar, aged 26 years
 - (c) Kumari Parnika Chaini, D/o Late Pramod Kumar, aged 22 years,
All three presently residing at near the house of Pandit Rajkumar Sharma, Pakki Kholi, Sindhi Colony, Chakradhar Nagar, Raigarh
 - (d) Smt. Bhagwati, Wd/o Late Vasudev Chaini, resident of Baikunthpur, Raigarh, Tahsil and District Raigarh
2. Executive Engineer, Public Health Engineering Department, Division Raigarh, Chakradharnagar, Pani Tanki, Raigarh

---- Respondents

For Appellant	:	Shri Manoj Kumar Sinha, Advocate
For Respondents	:	None

Hon'ble Shri Deepak Gupta, Chief Justice**Hon'ble Shri Justice Sanjay Agrawal****Judgment on Board****Per Deepak Gupta, Chief Justice****3.11.2016**

1. This appeal by Appellant/wife Annapurna Chaini is directed against the order dated 21.6.2006 passed by the Family Court, Raigarh, whereby the application filed by her was partly allowed.
2. Briefly stated the facts of the case are that Appellant Annapurna Chaini was married to Pramod Kumar Chaini. Admittedly, they divorced by mutual consent in the year 1993 and one of the terms of this divorce by mutual consent was that the husband would pay to the wife permanent alimony at the rate of Rs.600/- per month. The husband died in the year 2004. Thereafter, his retiral dues were to be

paid to his legal heirs, i.e., second wife, children etc. At that stage, in the year 2006, after the death of the husband, the wife filed a petition for enhancement of alimony. Learned Family Court partly allowed this application and held that out of the retiral dues a sum of Rs.1,50,000/- should be transferred in the name of the wife and she could use the interest thereon. Now, this appeal has been filed claiming enhancement. We are clearly of the view that the present appeal is totally misconceived. The right to get permanent alimony only survived till the death of the husband. It was the husband who was directed to pay the permanent alimony and at best a divorced wife could have claimed that she is entitled to recover this alimony from the estate of the husband. Not only she has been given right to recover from the estate of the deceased husband, but the sum of Rs.1,50,000/- has also been ordered to be deposited in her name in a bank. On the said amount, even if the interest is calculated @ 8% per annum, the interest factor would be Rs.1,000/- per month which is much more than the permanent alimony. Supposing the husband was not in a Government job then from whom the wife could get the permanent alimony. The responsibility to pay the permanent alimony was of the husband only.

3. Therefore, we find no merit in the appeal. It is dismissed accordingly.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(Sanjay Agrawal)
JUDGE