

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL NO. 859 OF 2006

Smt. Sukhbat, W/o Ganesh Ram Sinha, aged about 55 years, R/o of Old Rawanbhata, Mahasamund (C.G.)

... Appellant

Versus

1. Smt. Saroj Bai, Wd/o Late Naresh Kumar Sinha, aged about 34 years
 2. Kumari Satyawati, D/o Late Naresh Kumar Sinha, aged about 15 years
 3. Kumari Renuka, D/o Late Naresh Kumar Sinha, aged about 10 years
 4. Kumari Shaleen, D/o Late Naresh Kumar Sinha, aged about 3 years
- Sl. No. 2 to 4 are minors, through their natural guardian- mother i.e., the Appellant No.1 Smt. Saroj Bai.

All are R/o Shankar Nagar, Ward No.1, Mahasamund, District Mahasamund (C.G.)

5. Satbeer Singh, aged about 34 years, S/o Shri Budhram Prajapati, R/o Jahidabad, Qtr. No.8, P.S. Sahibabad, Qtr. No.8, Urkala, Delhi 11000041, through: M/s Central Electronics Co. Limited, 781 D.B. Sultanpuri, Gupta Road, Bagdelhi.

6. M/s Central Electronics Co. Limited, 781 D.B. Sultanpuri, Gupta Road, Bagdelhi.

7. The Oriental Insu. Company Limited, D.B. 16, First Floor, 88 Janpath New Delhi 110001, through Divisional Office, Raipur, District Raipur (C.G.)

... Respondents

For Appellant	:	Mr. Awadh Tripathi, Advocate.
For Respondent No. 1 to 4	:	Mr. J.A. Lohani, Advocate.
For Respondent No.7	:	Mr. N.K. Malviya, Advocate, under instructions of Mr. A.K. Athley, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/08/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, by Respondent No.4 in the claim case before the Tribunal, i.e., the mother of the deceased.

2. Challenge is to the award dated 30.12.2005 passed by the Second Additional Motor Accident Claims Tribunal, Mahasamund, in Claim Case No. 40 of 2005.

3. The Claimants i.e. Respondents No. 1 to 4 herein had filed a claim case under Section 166 of the Motor Vehicles Act, 1988, before the Tribunal seeking compensation on the death of the husband of Respondent No.1 and father of Respondents No. 2 to 4, the minor children of the deceased. The Appellant herein i.e. the Respondent No.4 in the claim case, was the mother of the deceased who herself was a widow.

4. The Tribunal after considering the facts and circumstances of the case, vide the impugned award, has allowed the claim case of the Claimants and ordered for payment of Rs. 3,93,500/- as compensation in their favour with interest at the rate of 6% per annum from the date of claim case.

5. It is this award which has been assailed by the Appellant alleging that she being the Respondent No.4 in the claim case has not been granted any share in the compensation awarded by the Tribunal nor has she been granted any compensation by the Tribunal while passing the impugned award.

6. Learned Counsel for the Appellant submits that the Appellant being the mother of the deceased was herself a widow and was dependant upon the deceased and that she was otherwise also entitled for the loss of his son very early in her life and the Tribunal having not granted any compensation to the Appellant has made an error of law while passing the impugned award and therefore the impugned award deserves to be modified accordingly.

7. Learned Counsels for the Respondents including the Insurance Company however oppose the appeal and submits that the Tribunal has given justified reasons for not granting any compensation to the Appellant and that the amount of compensation is fair and reasonable and does not warrant any interference and thus prayed for the rejection of the appeal.

8. Considering the submissions put forth on either side and on perusal of the record, undisputedly the Appellant i.e. the Respondent No.4 before the Tribunal, was the mother of the deceased. It is also not in dispute that the Appellant was also a widow. Further, what is also not in dispute is the fact that the deceased at the time of accident was aged about 35-40 years, which itself shows that the Appellant has lost her son very early in her life and which itself has given a great shock in her life and she had undergone much mental agony and loss of love and affection of a son.

9. For the aforesaid reasons, this Court is of the opinion that the Tribunal ought to have granted some compensation to the Appellant also on the head of love and affection and the impugned award thus deserves to be modified accordingly.

10. In the opinion of this Court, considering the facts and circumstances of the case and also taking note of the relationship of the Appellant with the deceased, ends of justice would meet if the Appellant is granted a compensation of Rs.1,00,000/- under the head of loss of love and affection which should redress the grievance of the Appellant so far as not getting any share in the compensation which has been otherwise awarded to the Claimants.

11. Accordingly, it is ordered that the Appellant shall also be entitled for an amount of Rs.1,00,000/- (One Lakh) as compensation towards loss of love and affection. The said amount shall also carry interest at the rate of 6% per annum from the date of impugned award.

12. The appeal is allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge