NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MAC No.825 of 2013

Mahasingh Dhruv S/o Gosairam Dhruv Aged About 59 Years R/o Rohansi, Post Off. Palari, P.S. Palari, Distt. Baloda Bazar (Now Baloda Bazar-Bhatapara) C.G.

----Appellant

Versus

1. Virendra Kumar Patel S/o Kriparam Patel Aged About 30 Years R/o Temri, P.O. Palari, P.S. Palari, Distt. Baloda Bazar (Now Baloda Bazar-Bhatapara) C.G.
2. Kashiram Patel S/o Kriparam Patel Aged About 30 Years R/o Temri, P.O. Palari, P.S. Palari, Distt. Baloda Bazar (Now Baloda Bazar-Bhatapara) C.G.
3. The Iffco Tokie General Insurance Co. Ltd. Head Regd. Off.- Iffco Sadan, CIDS Center, Saket, New Delhi-110017, Branch Office Through- Branch Manager, Branch Off. 345-347, 3rd Floor, Lalganga Shopping Mall, G.E. Road, P.O. Raipur, P.S. Golbazar, Raipur, Tah. & Distt. Raipur C.G.

---- Respondents

For Appellant	:	Shri AL Singorul on behalf of Shri Shivendu Pandya, Advocate.
For Respondent No.3	:	Shri P. Acharya, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

04/08/2017

1. The present is an appeal under section 173 of the Motor Vehicles Act against the award dated 28.02.2013 passed by the 1st Additional Motor Accident Claims Tribunal, Baloda Bazar, Distt. Raipur (as it then was) (in short, the Tribunal) in Claim Case No.32 of 2012. Vide the said impugned award, the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act has awarded a lump sum compensation of Rs.50,000/- to the claimant on the death of deceased Tijmat Bai, aged around 45 years.
2. The facts being undisputed, this court does not intend to give the

factual details, inasmuch as, the accident, the resultant death of deceased, the offending vehicle involved in the accident being insured by the respondent No.3 and the age of the deceased are not in dispute.

3. Counsel for the appellant submits that considering the fact that deceased was aged around 45 years and she was sister of the present appellant i.e. he is the only legal representative of the deceased, and therefore, he is entitled for compensation. It was further contended that the Tribunal has erred in not granting any compensation under the head of loss of love and affection and funeral expenses. Likewise, loss of estate has also not been quantified while assessing the compensation and thus, the amount awarded deserves enhancement.

4. The counsel for the insurance company however opposes the appeal and submits that the findings of Tribunal is self explanatory inasmuch as, the claimant was dependent upon the deceased and therefore, he is not entitled for compensation under the head of loss of dependency and thus, the Tribunal has rightly awarded a lump sum compensation of Rs.50,000/- which does not call for any interference and the appeal be rejected accordingly.

5. Having considered the rival contentions put forth on either side and on perusal of records, the facts of the case so far as claimant being brother of the deceased, the deceased staying along with claimant and the accident arose on account of use of Tractor bearing registration No.CG-04-DM-9551 are not in dispute. What is culled out

from the admitted facts is that, the claimant being brother of the deceased, it was he who had performed the last rites on the death of the deceased, it was the claimant who would have borne the funeral expenses of the deceased. Likewise, when it is undisputed that the claimant was the sole brother of deceased, he has definitely suffered loss of love and affection on account of his sister's death. In addition, there would also be loss of estate in this regard. Thus, this court is of the opinion that non granting of compensation under the heads of loss of love and affection, funeral expenses and loss of estate by the Tribunal was not proper and justified and the same deserves to be awarded.

6. Accordingly, the appeal is allowed and it is ordered that the claimants shall be entitled for an amount of Rs.50,000/- towards loss of love and affection, Rs.25,000/- towards funeral expenses and for loss of estate also he is entitled for Rs.25,000/-. Thus, the appellant-claimant shall now be entitled for a lump sum compensation of Rs.1,50,000/- i.e. Rs.1,00,000/- over and above the amount already awarded by the Tribunal. The above enhanced amount shall also carry the interest at the same rate what has been awarded by the Tribunal.

7. The respondent-insurance company is granted two months time to deposit the enhanced amount of compensation before the concerned claims Tribunal.

Sd/-
(P. Sam Koshy)
Judge

inder