

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 1025 of 2013**

Gaukaran S/o Late Latelu Ram Dahariya, aged about 38 years, R/o Jodhapur Ward, Dhamtari, P.S. Dhamtari, Tah. Dhamtari, Distt. Dhamtari C.G.

---- Appellant**Versus**

1. Jhadu Ram Mandavi S/o Late Sumeri Ram aged about 52 Years R/o Infront of Gil Bhawan, Lal Bagicha Ward, Dhamtari, P.S. Dhamtari, Tah. and Distt. Dhamtari C.G. (Driver of the offending vehicle)
2. M/s Dubey Travels New Bus Stand, Pandri, Raipur, Tah. and Distt. Raipur C.G. (Owner of the offending vehicle)
3. The Oriental Insurance Co. Ltd. behind Amar Talkies, Dhamtari, Tah. and Distt. Dhamtari C.G. (Insurer of the offending vehicle)
4. Meena Bai W/o Gaukaran Dahariya, aged about 36 years, R/o Jodhapur Ward, Dhamtari, P.S. and Tah. Dhamtari, Distt. Dhamtari C.G.
5. Gauri Bai W/o Badri Prasad, aged about 36 Years R/o Siyadehi, Tah. Dhamtari, Distt. Dhamtari C.G.
6. Fuleshwari D/o Ramchandra Kurrey, aged about 34 Years R/o Dudhwapara, Tah. Magarlod, Distt. Dhamtari C.G.
7. Sarojni W/o Tansingh Joshi aged about 32 Years R/o Parewadhi, Tah. and Distt. Dhamtari C.G.

---- Respondents

For Appellant	:	Ms. Nand Kumari Kashyap, Advocate
For Respondents 1 & 2	:	Shri Sudeep Johri, Advocate
For Respondent no.3	:	Shri Raj Awasthi, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****17/07/2017**

The present is an appeal seeking enhancement under Section 173 of the Motor Vehicles Act assailing the award dated 24.09.2013 passed by the Principal Motor Accident Claims Tribunal, Dhamtari (CG) in Claim Case No. 08/2013. Vide

the impugned award, the Tribunal has awarded compensation of Rs.1,21,000/- on the death of the deceased Kumari Bai Dahariya aged around 60 years on account of an accidental death that took place on 11.12.2012.

2. Counsel for the appellant submits that the appeal is based on the ground that the quantum of compensation awarded is on the lower side and it deserves to be enhanced. According to the counsel for the appellant, the wage which has been taken by the Tribunal for calculation of compensation is on the lower side whereas it should have been more than what has been assessed by the Tribunal. Likewise the compensation under the other heads like funeral and love and affection is also on the lower side which deserves to be enhanced suitably.

3. Counsel for the respondents however opposing the appeal submits that the award appears to be fair and reasonable as the Tribunal has taken into consideration the age of the deceased at the time of accident and also the nature of employment and therefore, there is no scope of any interference with the impugned award.

4. Having heard the counsel appearing on either side and on perusal of the record, the admitted facts from the pleadings which have come on record are the date of accident being 11.12.2012, the deceased being Kumari Bai Dahariya, the age of the deceased as per the ration card is around 61-62 at the time of accident and the vehicle involved in the accident belonging to respondent no.2 which was being driven by respondent no.1 and was insured with respondent no.3. In view of the said admitted factual position, the only point of consideration is that whether the amount of compensation paid by the Tribunal is proper, legal and justified.

5. Taking into consideration the deceased being a lady aged about 61-62 years at the time of accident it goes to be presumed that since she was a labour, she must have been drawing Rs.100/- a day at the relevant point of time and if that be so, the calculation of compensation made taking Rs.100/- her income per day does not warrant any interference as the same is reasonable.

6. However, considering the fact that the funeral expenses awarded by the Tribunal is only Rs.5,000/- which is definitely on the lower side and the same requires enhancement and is accordingly enhanced to Rs.25,000/-. Likewise, the loss of love and affection awarded by the Tribunal of Rs.5,000/- is again on the lower side. Considering the total facts and circumstances of the case, the compensation under the head of love and affection also deserves to be and is accordingly enhanced to Rs.50,000/- in stead of Rs.5,000/- as awarded by the Tribunal.

7. In the light of the enhancement made by this Court the total compensation payable to the claimant would be Rs.1,86,000/- out of which the Tribunal has already awarded an amount of Rs.1,21,000/-. Accordingly, it is directed that the respondent no.3 Insurance Company shall deposit the enhanced amount of Rs.65,000/- payable to the claimant within a period of two months from today. The said enhanced amount shall also carry interest at the rate as quantified by the Tribunal. The other directions as awarded by the Tribunal shall remain intact.

8. With the aforesaid modification to the impugned award, the appeal stands allowed.

Sd/-
(P. Sam Koshy)
JUDGE