

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 308 of 2011**

1. Ram Singh Baghel S/o late Shri Ganesh Ram Baghel, aged about 32 years.
2. Jagmohan Baghel S/o Late Ganesh Ram Baghel, aged about 28 years.

Both R/o Village Sankhara, PS Kumhari, Distt. Raipur (CG). Presently residing at Near Shiv Mandir, Raipur, Distt. Raipur (CG).

---- Appellants**Versus**

1. Ganesh Kumar Sahu S/o Shri Nohar Singh Sahu, R/o Village Chhuhiya, Thana Bagbahra, Distt. Mahasamund (CG). Presently near Shiv Mandir, Raipur, Distt. Raipur (CG).
2. Hemant Kumar Sonkar S/o Puranlal Sonkar, R/o Near Gupta Hardware, Mahadev Ghat Oad, Ashwini Nagar, District Raipur.

---- Respondents

For Appellants	:	Shri Sameer Uraon and Shri Chakresh Tiwari, Advocates.
For Respondent No.2	:	Shri Pawan Kesharwani and Shri Chandresh Shrivastava, Advocates.

SB: Hon'ble Shri Justice P. Sam Koshy**Judgment on Board****10.01.2018**

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the claimants seeking enhancement against the award dated 14.07.2010 passed by the 10th Additional Motor Accident Claims Tribunal, Raipur (in short, the Tribunal) in Claim Case No.1 of 2010. Vide the said impugned award, the Tribunal in a death case has awarded a compensation of Rs.67,000/- with interest @ 6 percent per annum from the date of application.
2. Learned counsel for the appellants submits that insptie of fact that it

was a death case and the deceased was the mother of the claimants, the Tribunal has not granted compensation towards loss of dependency. Further, the compensation awarded towards loss of love and affection and conventional heads are extremely low. It is further submitted that since the deceased was a house wife and was contributing towards maintenance of the house, the Tribunal for all practical purposes should have taken into consideration a practical approach and have taken the notional income of the deceased for the purpose of calculating the compensation and thus prayed for the award amount to be suitably enhanced.

3. Learned counsel for the respondents, however opposing the appeal submits that the findings of the Tribunal is just and reasonable and that the Tribunal has taken into consideration the evidence which have come on record and therefore there is no scope of enhancement of compensation awarded.
4. Having heard the conditions put forth on either side and on perusal of records, what clearly reflects is that the deceased in the instant case was aged around 60 years and that she was a house wife. Further, from the perusal of records it also reflects that both the claimants are married sons and are self dependent and there is no evidence to show that these claimants were dependent upon the income of the deceased mother for their sustenance. From the finding of paragraphs 15 and 16 of the award, it clearly reflects that both the claimants were married and had 3-4 children each and therefore they were able to sustain themselves.

5. Under the aforesaid facts and circumstances of the case, this court is of the opinion that the claimants shall be entitled only for loss of love & affection and for other incidental expenses under the conventional heads.
6. If we look into the compensation awarded towards loss of love and affection, this court is of the opinion that for loss of mother that too in the accident occurred in October, 2009, compensation of Rs.5000/- each is definitely on the lower side and this court enhances the same at Rs.20,000/- each instead of Rs.5000/- each. Likewise, for the expenses incurred towards cremation and funeral expenses also this court quantifies the compensation at Rs.25000/- instead of Rs.5000/- as awarded by the Tribunal. Further, so far as loss of estate is concerned, this court quantifies the same at Rs.12,000/- instead of Rs.2000/-. Thus, in all there shall be an additional compensation of Rs. 60,000/- in addition to what has already been awarded by the Tribunal.
7. It is ordered accordingly that the claimants shall be entitled for a total compensation of Rs.1,27,000/- instead of Rs.67,000/- as awarded by the Tribunal.
8. The enhanced amount of compensation shall also carry interest at the same rate as awarded by the Tribunal.
9. Accordingly, the appeal stands allowed and disposed of.

Sd/-

(P.Sam Koshy)
Judge