

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 270 of 2018**

1. Rajkumar Nirmalkar S/o Late Arjun Nirmalkar Aged About 25 Years R/o Village Khudmuda Thana Barela District- Bemetara, Chhattisgarh.
2. Smt. Sangeeta Nirmalkar W/o Manoj Nirmalkar Aged About 23 Years R/o Ward No. 4 Village Tekari Post Giroud, District- Raipur, Chhattisgarh.

---Appellants**Versus**

1. Rajnarayan Yadav S/o Late Sukharam Yadav Aged About 55 Years R/o Ravtarasgunj Thana And District- Sonbhadra (Uttar Pradesh). (Driver Of The Offending Vehicle Truck No. H. R. No. 55/ L/ 3183).
2. Ram Ashray Shukla R/o House No. 304 Block -A Haosla Vihar New Delhi. (Owner Of The Offending Vehicle Truck No. H. R. No. 55/L/ 3183). (Owner)., District : New Delhi, Delhi
3. Shri Ram General Insurance Company Limited, Address Plot No. 1 4th Floor Maruti Heights G. E. Road Raipur, District- Raipur, Chhattisgarh. (Insurer Of The Offending Vehicle Truck No. H.R. No. 55/L/3183)

---- Respondents

For Appellants
For Respondent No.3

Shri A.L. Singroul, Advocate.
Shri S.S. Rajput, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board**

29/03/2019

1. The appellants/claimants have filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (in short "the Act") seeking enhancement of compensation awarded by the 2nd Additional Motor Accident Claims Tribunal, Raipur,

District Raipur, C.G. in Claim Case No.503/2016 vide award dated 04.10.2017, thereby granting compensation of Rs.85,000/- with interest @ 9% per annum from the date of application till realization in favour of the claimants, fastening liability upon Insurance Company along with non-applicants.

2. As per averments made in the application filed under Section 166 of the Act by the claimants i.e. Elder Brother and Married Sister of deceased Arjun Nirmalkar, aged about 23 years, earning Rs.12,000/- working in the Siltara Company, was sitting on motorcycle as a pillion rider, which was being driven by one Papu Tandan met with an accident with a Truck bearing registration No.HR55-L-3183 which was driven by respondent no.1 rashly and negligently, as a result of which deceased sustained grievous injuries on his body and succumbed to death during treatment. At the time of accident, the offending vehicle was owned by respondent No.1 and insured with respondent No.2. Hence, the claimants by filing claim application sought compensation of Rs.29,50,000/- with interest from the respondents under various heads.
3. The Tribunal considering the evidence of both the parties, by the impugned award granted compensation in favour of the claimants as mentioned above. Hence, this appeal by the claimants for enhancement of compensation. However, no counter appeal has been filed by the respondents in this

case.

4. Counsel for the appellants submits that the Tribunal was not justified in denying the dependency of the claimants on the deceased. Further, the Tribunal has not awarded sufficient amount under the conventional heads. In these circumstances, the compensation awarded by the Tribunal deserves to be enhanced suitably.
5. On the other hand, learned counsel for the respondent/insurance company supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.
6. Heard learned counsel for the parties and perused the material available on record.
7. From perusal of the evidence of the claimants, it is clear that they were having independent source of their income and were not dependent on the deceased at all. There is nothing on record to show that the deceased was contributing any amount towards the maintenance of the claimants. Thus, the claimants were rightly held by the Tribunal not entitled for any amount towards loss of dependency. However, the Tribunal considering the facts and circumstances of the case awarded Rs.50,000/- towards loss of estate, Rs.15,000/- towards funeral expenses and Rs.10,000/- each to the claimants i.e. Rs.20,000/- for loss of love and affection.

Thus, the total compensation of Rs.85,000/- was awarded in favour of the claimants. The findings so recorded by the Tribunal, in the facts and circumstances of the case and the evidence adduced by the claimants themselves, are just and proper and need no interference by this Court.

8. Resultantly, the appeal being without any substance is liable to be dismissed and is, accordingly, dismissed.

Sd/-
Gautam Chourdiya
Judge