
(2013) 09 DEL CK 0458
In the Delhi High Court
Case No : MAC. A. 846 of 2011

ICICI Lombard General Insurance Co. Ltd.	APPELLANT
Vs	
Angrej Singh and Others	RESPONDENT

Date of Decision : 30-09-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A, 166, 168

Citation : (2013) 4 ACC 139 : (2014) ACJ 2006

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Navneet Kumar, for the Appellant; Navneet Goyal, Advocate for Respondent Nos. 1 to 3, for the Respondent

Final Decision : Dismissed

Judgement

Suresh Kait, J.—Instant appeal has been preferred against the impugned award dated 10.03.2011 whereby Id. Tribunal has granted compensation for a sum of Rs. 5,76,500/- with interest @ 7.5% per annum from the date of filing of the petition till realization. Id. Counsel appearing on behalf of the appellant submitted that in the Claim Petition, claimants have claimed that deceased was earning a sum of Rs. 5,200/- per month as he was employed as an Electrician with M/s. M.R. Switch well at Vishal Retail Ltd., Bakoli Warehouse. The claimants have placed on record the certificate of the employer of the deceased dated 13.11.2008, which shows that the deceased was getting monthly salary of Rs. 4,500/-. Since no evidence has been brought on record by the appellant/ insurance company to show that the salary certificates were not correct or genuine, therefore, Id. Tribunal has considered the salary certificate Ex. PW1/1 as the last drawn salary of the deceased at Rs. 4,500/- for ascertaining the loss of dependency.

2. Id. Counsel for the appellant has argued that the claimants failed to establish that he was in a permanent job. Despite that Id. Tribunal has added 50% towards future prospects.

3. Ld. Counsel has relied upon a case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, wherein it is held as under:

The lack of uniformity and consistency in awarding compensation has been a matter of grave concern. Every district has one or more Motor Accident Claims Tribunal/s. If different Tribunals calculate compensation differently on the same facts, the claimant, the litigant, the common man will be confused, perplexed and bewildered. If there is significant divergence among Tribunals in determining the quantum of compensation on similar facts, it will lead to dissatisfaction and distrust in the system. We may refer to the following observations in Trilok Chandra:

We thought it necessary to reiterate the method of working out "just" compensation because, of late, we have noticed from the awards made by Tribunals and Courts that the principle on which the multiplier method was developed has been lost sight of and once again a hybrid method based on the subjectivity of the Tribunal/Court has surfaced, introducing uncertainty and lack of reasonable uniformity in the matter of determination of compensation. It must be realized that the Tribunal/Court has to determine a fair amount of compensation awardable to the victim of an accident which must be proportionate to the injury caused.

Compensation awarded does not become "just compensation" merely because the Tribunal considers it to be just. For example, if on the same or similar facts (say deceased aged 40 years having annual income of 45,000/- leaving him surviving wife and child), one Tribunal awards Rs. 10,00,000/- another awards Rs. 5,00,000/-, and yet another awards Rs. 1,00,000/-, all believing that the amount is just, it cannot be said that what is awarded in the first case and last case, is just compensation. Just compensation is adequate compensation which is fair and equitable, on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do so, by applying the well settled principles relating to award of compensation. It is not intended to be a bonanza, largesse or source of profit. Assessment of compensation though involving certain hypothetical considerations, should nevertheless be objective. Justice and justness emanate from equality in treatment, consistency and thoroughness in adjudication, and fairness and uniformity in the decision making process and the decisions. While it may not be possible to have mathematical precision or identical awards, in assessing compensation, same or similar facts should lead to awards in the same range. When the factors/inputs are the same, and the formula/legal principles are the same, consistency and uniformity, and not divergence and freakiness, should be the result of adjudication to arrive at just compensation. In *Susamma Thomas*, this Court stated:

So the proper method of computation is the multiplier method. Any departure, except in exceptional and extra-ordinary cases, would introduce inconsistency of principle, lack of uniformity and an element of unpredictability, for the assessment of compensation.

4. Ld. Counsel for the appellant submits that the case of Sarla Verma (Supra) has been further affirmed by the Apex Court in the case of Reshma Kumari and Others Vs. Madan Mohan and Another,

5. The Apex Court has further held that while making addition to income for future prospects, the Tribunal shall follow paragraph 24 of Sarla Verma. It is held as under:

35. With regard to the addition to income for future prospects, in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, this Court has noted earlier decisions in General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, Sarla Dixit: 1996 (3) SCC 179 and Abati Bezbaruah Vs. Dy. Director General Geological Survey of India and Another, and in paragraph 24 of the Report held as under:

24...In view of the imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects, where the deceased had a permanent job and was below 40 years. (Where the annual income is in the taxable range, the words "actual salary" should be read as "actual salary less tax"). The addition should be only 30% if the age of the deceased was 40 to 50 years. There should be no addition, where the age of the deceased is more than 50 years. Though the evidence may indicate a different percentage of increase, it is necessary to standardise the addition to avoid different yardsticks being applied or different methods of calculation being adopted. Where the deceased was self-employed or was on a fixed salary (without provision for annual increments, etc.), the courts will usually take only the actual income at the time of death. A departure therefrom should be made only in rare and exceptional cases involving special circumstances.

6. The appellant also relied upon a case of Central Board of Dawoodi Bohra Community and Another Vs. State of Maharashtra and Another, wherein it is held as under:

Having carefully considered the submissions made by the learned senior counsel for the parties and having examined the law laid down by the Constitution Benches in the abovesaid decisions, we would like to sum up the legal position in the following terms:-

(1) The law laid down by this Court in a decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or co-equal strength.

(2) A Bench of lesser quorum cannot doubt the correctness of the view of the law taken by a Bench of larger quorum. In case of doubt all that the Bench of lesser quorum can do is to invite the attention of the Chief Justice and request for the matter being placed for hearing before a Bench of larger quorum than the Bench whose decision has come up for consideration. It will be open only for a Bench of coequal strength to express an opinion doubting the correctness of the view

taken by the earlier Bench of coequal strength, whereupon the matter may be placed for hearing before a Bench consisting of a quorum larger than the one which pronounced the decision laying down the law the correctness of which is doubted.

(3) The above rules are subject to two exceptions: (i) The abovesaid rules do not bind the discretion of the Chief Justice in whom vests the power of framing the roster and who can direct any particular matter to be placed for hearing before any particular Bench of any strength; and

(ii) In spite of the rules laid down hereinabove, if the matter has already come up for hearing before a Bench of larger quorum and that Bench itself feels that the view of the law taken by a Bench of lesser quorum, which view is in doubt, needs correction or reconsideration then by way of exception (and not as a rule) and for reasons given by it, it may proceed to hear the case and examine the correctness of the previous decision in question dispensing with the need of a specific reference or the order of Chief Justice constituting the Bench and such listing. Such was the situation in *Raghubir Singh and Ors.* and *Hansoli Devi and Ors.* (supra).

7. While concluding his arguments, Id. Counsel submitted that the deceased was not in a permanent job, despite that Id. Tribunal has added 50% towards future prospects contrary to the dictum of *Sarla Verma* further affirmed by *Reshma Kumari* (Supra).

8. On the other hand, Id. Counsel for the respondent submitted that in case of *Sarla Verma*, the Apex Court has decided the multiplier, which has been affirmed by *Reshma Kumari*. Therefore, there was no embargo before the Id. Tribunal with respect to the addition of 50% towards future prospects. The age of the deceased at the time of accident was 23 years. He was unmarried. Therefore, Id. Tribunal has rightly assessed 50% towards future prospects.

9. Id. Counsel submitted that in Para 11 of the case of *Sarla Verma*, the Apex Court held as under:

In *Susamma Thomas*, this Court increased the income by nearly 100%, in *Sarla Dixit*, the income was increased only by 50% and in *Abati Bezbaruah* the income was increased by a mere 7%. In view of imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects, where the deceased had a permanent job and was below 40 years. [Where the annual income is in the taxable range, the words "actual salary" should be read as "actual salary less tax"]. The addition should be only 30% if the age of the deceased was 40 to 50 years. There should be no addition, where the age of deceased is more than 50 years. Though the evidence may indicate a different percentage of increase, it is necessary to standardize the addition to avoid different yardsticks being applied or different methods of calculations being adopted. Where the deceased was self-employed or was on a fixed salary

(without provision for annual increments etc.), the courts will usually take only the actual income at the time of death. A departure therefrom should be made only in rare and exceptional cases involving special circumstances.

10. He further submitted that the Apex Court has left the issue open on future prospects. Further, same has been decided in the case of Santosh Devi Vs. National Insurance Company Ltd. and Others,

11. Ld. Counsel further submits that dictum of Santosh Devi (Supra) has been further affirmed by the Full Bench of the Supreme Court in Rajesh and Others Vs. Rajbir Singh and Others,

12. I have heard Id. Counsels for the parties.

13. The specific issue for the consideration is whether the claimants are entitled for compensation on account of future prospects, if so, to what extent?

14. Regarding the assessment of future prospects, the Apex Court has expressed different criteria depending on the nature of employment. In Reshma Kumari, the Apex Court in Para 36 categorically expressed the opinion that the persons who are working in private/self-employment sector are not entitled for future prospects, whereas, the persons falls under the category of permanent employment are entitled for future prospects.

15. On 02.04.2013, the Apex Court pronounced the judgment in Reshma Kumari, thereafter on 12.04.2013 co-equal Bench of Apex Court pronounced the judgment in Rajesh (Supra). In Rajesh, the Apex Court has held that person's falling under the category of self-employment/fixed wages are entitled for future prospects.

16. Therefore, the question arises for the consideration that the finding in the Reshma Kumari is a binding precedent for the assessment of future prospects in respect of persons falling under the category of self-employment/fixed wages. Before advertng to the matter, it is important to examine the principles enunciated in the Reshma Kumari) and also the method of assessment of compensation prior to Reshma Kumari.

17. In Reshma Kumari, the Apex Court examined the legal issue regarding the application of multiplier for calculation of amount of compensation falling u/s 166 of the Motor Vehicles Act, 1988. It is relevant to extract the referral order dated 23.07.2009, on the basis of which the Apex Court examined the issue.

39. We have noticed hereinbefore that in United India Insurance Co. Ltd. Vs. Patricia Jean Mahajan and Others Etc. Etc., and Abati Bezbaruah Vs. Dy. Director General Geological Survey of India and Another, and the other cases following them multiplier specified in the Second Schedule has been taken to be guiding factor for calculation of the amount of compensation even in a case u/s 166 of the Act. However, in New India Assurance Company Ltd. Vs. Smt. Shanti Pathak and Others, this Court advocated application of lesser multiplier, although no

legal principle has been laid therein.

40. In U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, this Court has pointed out certain purported calculation mistakes in the Second Schedule. It, however, appears to us that there is no mistake therein. Amount of compensation specified in the Second Schedule only is required to be paid even if a higher or lower amount can be said to be the quantum of compensation upon applying the multiplier system.

41. Section 163A of the 1988 Act does not speak of application of any multiplier. Even the Second Schedule, so far as the same applies to fatal accident, does not say so. The multiplier, in terms of the Second Schedule, is required to be applied in a case of disability in nonfatal accident. Consideration for payment of compensation in the case of death in a "no fault liability" case vis-à-vis the amount of compensation payable in a case of permanent total disability and permanent partial disability in terms of the Second Schedule is to be applied by different norms. Whereas in the case of fatal accident the amount specified in the Second Schedule depending upon the age and income of the deceased is required to be paid where for the multiplier is not to be applied at all but in a case involving permanent total disability or permanent partial disability the amount of compensation payable is required to be arrived at by multiplying the annual loss of income by the multiplier applicable to the age of the injured as on the date of determining the compensation and in the case of permanent partial disablement such percentage of compensation which would have been payable in the case of permanent total disablement as specified under item (a) of the Second Schedule.

42. The Parliament in its wisdom thought to provide for a higher amount of compensation in case of permanent total disablement and proportionate amount of compensation in case of permanent partial disablement depending upon the percentage of disability.

43. Thus, prima facie, it appears that the multiplier mentioned in the Second Schedule, although in a given case, may be taken to be a guide but the same is not decisive. To our mind, although a probable amount of compensation as specified in the Second Schedule in the event the age of victim is 17 or 20 years and his annual income is Rs. 40,000/-, his heirs/legal representatives is to receive a sum of Rs. 7,60,000/-, however, if an application for grant of compensation is filed in terms of Section 166 of the 1988 Act that much amount may not be paid, although in the former case the amount of compensation is to be determined on the basis of "no fault liability" and in the later on "fault liability". In the aforementioned situation the Courts, we opine, are required to lay down certain principles.

44. We are not unmindful of the Statement of Objects and Reasons to Act 54 of 1994 for introducing Section 163A so as to provide for a new predetermined formula for payment of compensation to road accident victims on the basis of

age/income; which is more liberal and rational. That may be so, but it defies logic as to why in a similar situation, the injured claimant or his heirs/legal representatives, in the case of death, on proof of negligence on the part of the driver of a motor vehicle would get a lesser amount than the one specified in the Second Schedule. The Courts, in our opinion, should also bear that factor in mind.

45. Having regard to divergence of opinion and this aspect of the matter having not been considered in the earlier decisions, particularly in the absence of any clarification from the Parliament despite the recommendations made by this Court in U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, , the issue, in our opinion, shall be decided by a Larger Bench. It is directed accordingly.

18. The Apex Court in Reshma Kumari discussed and distinguished the compensation payable u/s 166 and Section 163A of Motor Vehicles Act, 1988. It has also taken note of the different precedents set into motion as well as the discrepancies, in order to have consistency and certainty in the assessment of compensation. Further, Hon"ble Apex Court categorically concluded that the assessment on the basis of "multiplier" method system shall be followed by the Tribunals and courts, as is held in Sarla Verma. It is relevant to note Para 33 and 34 of Reshma Kumari which reads as under:

33. We have already noticed the table prepared in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, for the selection of multiplier. The table has been prepared in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, having regard to the three decisions of this Court, namely General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, and New India Assurance Co. Ltd. Vs. Charlie and Another, for the claims made u/s 166 of the 1988 Act. The Court said that multiplier shown in Column (4) of the table must be used having regard to the age of the deceased. Perhaps the biggest advantage by employing the table prepared in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, is that the uniformity and consistency in selection of the multiplier can be achieved. The assessment of extent of dependency depends on examination of the unique situation of the individual case. Valuing the dependency or the multiplicand is to some extent an arithmetical exercise. The multiplicand is normally based on the net annual value of the dependency on the date of the deceased's death. Once the net annual loss (multiplicand) is assessed, taking into account the age of the deceased, such amount is to be multiplied by a "multiplier" to arrive at the loss of dependency. In Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, this Court has endeavoured to simplify the otherwise complex exercise of assessment of loss of dependency and determination of compensation in a claim made u/s 166. It has been rightly stated in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, that claimants in case of death claim for the purposes of compensation

must establish (a) age of the deceased; (b) income of the deceased; and (c) the number of dependants. To arrive at the loss of dependency, the Tribunal must consider (i) additions/deductions to be made for arriving at the income; (ii) the deductions to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference to the age of the deceased. We do not think it is necessary for us to revisit the law on the point as we are in full agreement with the view in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another,

34. If the multiplier as indicated in Column (4) of the table read with paragraph 42 of the Report in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, is followed, the wide variations in the selection of multiplier in the claims of compensation in fatal accident cases can be avoided. A standard method for selection of multiplier is surely better than a criss-cross of varying methods. It is high time that we move to a standard method of selection of multiplier, income for future prospects and deduction for personal and living expenses. The courts in some of the overseas jurisdictions have made this advance. It is for these reasons, we think we must approve the table in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, for the selection of multiplier in claim applications made u/s 166 in the cases of death. We do accordingly. If for the selection of multiplier, Column (4) of the table in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, is followed, there is no likelihood of the claimants who have chosen to apply u/s 166 being awarded lesser amount on proof of negligence on the part of the driver of the motor vehicle than those who prefer to apply u/s 163A. As regards the cases where the age of the victim happens to be upto 15 years, we are of the considered opinion that in such cases irrespective of Section 163A or Section 166 under which the claim for compensation has been made, multiplier of 15 and the assessment as indicated in the Second Schedule subject to correction as pointed out in Column (6) of the table in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, should be followed. This is to ensure that claimants in such cases are not awarded lesser amount when the application is made u/s 166 of the 1988 Act. In all other cases of death where the application has been made u/s 166, the multiplier as indicated in Column (4) of the table in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, should be followed.

19. Therefore, the assessment of compensation u/s 166 of the Motor Vehicles Act shall be regulated and guided on the basis of principles propounded in Reshma Kumari qua selection of multiplier. It has been affirmed that the methods of personal deductions depending on the number of dependents; and the assessment of income for permanent employees being the different factors of the multiplicand. It is important to note that Para 35 & 36 of the Reshma Kumari deals with the assessment of the future prospects. The same reads as under:

35. With regard to the addition to income for future prospects, in Smt. Sarla

Verma and Others Vs. Delhi Transport Corporation and Another, this Court has noted earlier decisions in General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, Sarla Dixit: 1996 (3) SCC 179 and Abati Bezbaruah Vs. Dy. Director General Geological Survey of India and Another, and in paragraph 24 of the Report held as under:

24...In view of the imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects, where the deceased had a permanent job and was below 40 years. (Where the annual income is in the taxable range, the words "actual salary" should be read as "actual salary less tax"). The addition should be only 30% if the age of the deceased was 40 to 50 years. There should be no addition, where the age of the deceased is more than 50 years. Though the evidence may indicate a different percentage of increase, it is necessary to standardise the addition to avoid different yardsticks being applied or different methods of calculation being adopted. Where the deceased was self-employed or was on a fixed salary (without provision for annual increments, etc.), the courts will usually take only the actual income at the time of death. A departure therefrom should be made only in rare and exceptional cases involving special circumstances.

36. The standardization of addition to income for future prospects shall help in achieving certainty in arriving at appropriate compensation. We approve the method that an addition of 50% of actual salary be made to the actual salary income of the deceased towards future prospects where the deceased had a permanent job and was below 40 years and the addition should be only 30% if the age of the deceased was 40 to 50 years and no addition should be made where the age of the deceased is more than 50 years. Where the annual income is in the taxable range, the actual salary shall mean actual salary less tax. In the cases where the deceased was self-employed or was on a fixed salary without provision for annual increments, the actual income at the time of death without any addition to income for future prospects will be appropriate. A departure from the above principle can only be justified in extraordinary circumstances and very exceptional cases.

20. In this context, it is significant to note the discussions and deliberations reported in Rajesh in respect of the assessment of future prospects related to persons falling under the category of self-employment/fixed wages as under:

8. At paragraph 24, it has been held as follows:

24. In Susamma Thomas, this Court increased the income by nearly 100%, in Sarla Dixit, the income was increased only by 50% and in Abati Bezbaruah the income was increased by a mere 7%. In view of imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects, where the deceased had a permanent job and was below 40 years.

(Where the annual income is in the taxable range, the words "actual salary" should be read as "actual salary less tax"). The addition should be only 30% if the age of the deceased was 40 to 50 years. There should be no addition, where the age of deceased is more than 50 years. Though the evidence may indicate a different percentage of increase, it is necessary to standardize the addition to avoid different yardsticks being applied or different methods of calculations being adopted. Where the deceased was self-employed or was on a fixed salary (without provision for annual increments etc.), the courts will usually take only the actual income at the time of death, A departure therefrom should be made only in rare and exceptional cases involving special circumstances.

9. In a recent decision, in Santosh Devi Vs. National Insurance Company Ltd. and Others, , authored by one of us (G.S. Singhvi, J.), Sarla Verma's case (supra) has further been explained with regard to the settled norms. It has been held in Paragraph 11 as follows:

11. We have considered the respective arguments. Although, the legal jurisprudence developed in the country in last five decades is somewhat precedent-centric, the judgments which have bearing on socioeconomic conditions of the citizens and issues relating to compensation payable to the victims of motor accidents, those who are deprived of their land and similar matters needs to be frequently revisited keeping in view the fast-changing societal values, the effect of globalisation on the economy of the nation and their impact on the life of the people.

10. Consequently, it has been held at Paragraphs 14 to 18, as follows:

14. We find it extremely difficult to fathom any rationale for the observation made in paragraph 24 of the judgment in Sarla Verma's case that where the deceased was self-employed or was on a fixed salary without provision for annual increment, etc., the Courts will usually take only the actual income at the time of death and a departure from this rule should be made only in rare and exceptional cases involving special circumstances. In our view, it will be nave to say that the wages or total emoluments/income of a person who is self-employed or who is employed on a fixed salary without provision for annual increment, etc., would remain the same throughout his life.

15. The rise in the cost of living affects everyone across the board. It does not make any distinction between rich and poor. As a matter of fact, the effect of rise in prices which directly impacts the cost of living is minimal on the rich and maximum on those who are self-employed or who get fixed income/emoluments. They are the worst affected people. Therefore, they put in extra efforts to generate additional income necessary for sustaining their families.

16. The salaries of those employed under the Central and State Governments and their agencies/instrumentalities have been revised from time to time to provide a cushion against the rising prices and provisions have been made for providing security to the families of the deceased employees. The salaries of

those employed in private sectors have also increased manifold. Till about two decades ago, nobody could have imagined that salary of Class IV employee of the Government would be in five figures and total emoluments of those in higher echelons of service will cross the figure of rupees one lakh.

17. Although, the wages/income of those employed in unorganized sectors has not registered a corresponding increase and has not kept pace with the increase in the salaries of the Government employees and those employed in private sectors but it cannot be denied that there has been incremental enhancement in the income of those who are self-employed and even those engaged on daily basis, monthly basis or even seasonal basis. We can take judicial notice of the fact that with a view to meet the challenges posed by high cost of living, the persons falling in the latter category periodically increase the cost of their labour. In this context, it may be useful to give an example of a tailor who earns his livelihood by stitching cloths. If the cost of living increases and the prices of essentials go up, it is but natural for him to increase the cost of his labour. So will be the cases of ordinary skilled and unskilled labour, like, barber, blacksmith, cobbler, mason etc.

18. Therefore, we do not think that while making the observations in the last three lines of paragraph 24 of Sarla Verma's judgment, the Court had intended to lay down an absolute rule that there will be no addition in the income of a person who is self-employed or who is paid fixed wages. Rather, it would be reasonable to say that a person who is self-employed or is engaged on fixed wages will also get 30 per cent increase in his total income over a period of time and if he/she becomes victim of accident then the same formula deserves to be applied for calculating the amount of compensation.

11. Since, the Court in Santosh Devi's case (supra) actually intended to follow the principle in the case of salaried persons as laid in Sarla Verma's case (supra) and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years.

12. In Sarla Verma's case (supra), it has been stated that in the case of those above 50 years, there shall be no addition. Having regard to the fact that in the case of those self-employed or on fixed wages, where there is normally no age of superannuation, we are of the view that it will only be just and equitable to provide an addition of 15% in the case where the victim is between the age group of 50 to 60 years so as to make the compensation just, equitable, fair and reasonable. There shall normally be no addition thereafter.

21. The Apex Court in *Rajesh* has discussed the issue regarding the assessment of future prospects; and has also come to a specific conclusion that the self-employed or persons with fixed wages are entitled for future prospects. The Apex Court succinctly specified the reasons for the same considering the socio-economic changes in the society. It also made thrust on the age of the deceased as one of the factors for computing the future prospects.

22. I note, the Apex Court in *Santosh Devi* noted the finding in *Sarla Verma*; and canvassed a different reasoning regarding the assessment of future prospects: one of the factors in the multiplicand.

23. The Apex Court in *Santosh Devi*, did not refer the matter to a Larger Bench, whereas it followed all the principles formulated in *Sarla Verma* except the finding in respect of the assessment of future prospects for the persons falling under the category of self-employment/fixed wages.

24. It is legally significant to note the dictum laid down by the Constitution Bench of Apex Court in *Central Board of Dawoodi Bohra Community and Anr.* (Supra). The Apex Court held as under:

12. Having carefully considered the submissions made by the learned senior counsel for the parties and having examined the law laid down by the Constitution Benches in the abovesaid decisions, we would like to sum up the legal position in the following terms:-

(1) The law laid down by this Court in a decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or co-equal strength.

(2) A Bench of lesser quorum cannot doubt the correctness of the view of the law taken by a Bench of larger quorum. In case of doubt all that the Bench of lesser quorum can do is to invite the attention of the Chief Justice and request for the matter being placed for hearing before a Bench of larger quorum than the Bench whose decision has come up for consideration. It will be open only for a Bench of coequal strength to express an opinion doubting the correctness of the view taken by the earlier Bench of coequal strength, whereupon the matter may be placed for hearing before a Bench consisting of a quorum larger than the one which pronounced the decision laying down the law the correctness of which is doubted.

25. While considering the case of *Santosh Devi*, the Apex Court did not feel to refer the matter to a Larger Bench. Therefore, it can be concluded that there is no contradictions in the finding of *Sarla Verma* and *Santosh Devi*, in turn the Apex Court extended the scope and ambit of *Sarla Verma* through *Santosh Devi*.

26. In view of above, this court is guided by the legal principles as set out in *Reshma Kumari* and *Rajesh* in order to assess the just compensation as it is envisaged in Section 168 of Motor Vehicles Act, 1988. In *Reshma Kumari*, the Apex Court affirmed the findings of *Sarla Verma*; and in *Rajesh*, the Hon"ble Supreme Court has agreed with the dictum of *Santosh Devi*. Specifically, for the

assessment of future prospects in respect of the persons falling under the category of self-employment/fixed wages this court is guided by the dictum laid down in Rajesh. In my considered opinion, there is no contradiction in the dictum laid down by the Apex Court in the cases of Reshma Kumari and Rajesh.

27. I note, in the present case, Id. Tribunal has relied upon a case of Sajha and Others Vs. National Insurance Co. Ltd. and Others whereby it is held that the schedule of minimum wages shows the wages slightly increases from time to time after every six months; and within next 10 years wages would have become double. Therefore, the increase in the minimum wages has to be taken into consideration while assessing the compensation on account of future prospects.

28. The record shows that the deceased started working on 01.01.2002 at an initial salary of Rs. 2,500/- per month. The deceased was getting Rs. 4,500/- per month at the time of his death. Accordingly, Id. Tribunal has added 50% towards future prospects.

29. In view of dictum laid down in Rajesh, I do not find any discrepancy in the impugned award passed by Id. Tribunal.

30. Accordingly, the instant appeal is dismissed with no order as to costs.

31. Vide order dated 14.02.2012, 60% of the deposited award amount was directed to be released in favour of the respondents/claimants. Therefore, balance compensation amount with accrued interest be released in favour of the respondents/claimants.

32. Statutory amount be released in favour of the appellant. The Registrar General of this Court is directed to circulate a copy of this judgment to all the Motor Accident Claims Tribunals for compliance.