
(2013) 02 MP CK 0009
In the Madhya Pradesh High Court
Case No : M.A. No. 69 of 2011

Jakir Hussain and Others

APPELLANT

Vs

Dinesh and Others

RESPONDENT

Date of Decision : 07-02-2013

Acts Referred:

Citation : (2013) ILR (MP) 1604

Hon'ble Judges : J.K. Maheshwari, J

Bench : Single Bench

Advocate : Manish Jain, for the Appellant; Sameer Verma, for the respondents No. 1 and 2, Pradeep Gupta and Bhashkar Agrawal for the Insurance Co., for the Respondent

Judgement

J.K. Maheshwari, J.—All these five appeals are arising out of the common award dated 20/07/2010 passed by Member. Motor Accident Claims Tribunal, Bhanpura, Distt. Mandsour in Claim Case No. 15/2007, Claim Case No. 23/2007. Claim Case No. 14/2007. Claim Case No. 24/2007 and Claim Case No. 32/2007 whereby the Tribunal awarded the sum of compensation in the case of death and injuries in the respective cases. As per Claim averments, on 10/05/2007 Ashfaq along with his friends Areef and Mustafa were standing at new bus stand, Bhanpura near Vijay Stambh with the motorcycle Hero Honda Splender. At about 10.20 p.m. in the night Mahindra Pickup Jeep bearing registration No. M.P. 14-G.A./0157 driven rashly and negligently by the driver-non-applicant No. 1, dashed to, them and also to Mustafa, Shabbeer, Fareed, Jeeshan, Ashraf and Bilal, wherein Ashfaq and Areef were died and other persons received injuries. Legal heirs and injured persons have filed their claim petition seeking compensation before Motor Accident Claims Tribunal.

2. In Claim Case No. 14/2007 Ashfaq is the deceased and his widow, son, daughter, mother and father residing jointly filed claim petition. It is contended that he was the owner of Truck bearing No. RJ-33-GA/0171 and a Troller No. RJ-33-GA/0470 having earning Rs. 30,000/- per month. He was also the

President of Rajeev Matsya Udyog Sahakari Samiti Maryadit, Bhanpura and have earning from fishing work however, compensation to the tune of Rs. 16,65,000/- has been prayed for.

3. In Claim Case No. 15/2007 Areef is the deceased and claimants are mother, father, brother and sister. The deceased was the owner of Troller bearing No. R.J. 33G.A./0173 having monthly income of Rs. Rs. 20,000/-, however, compensation to the tune of Rs. 17,05,000/-has been prayed for.

4. In claim case No. 23/2007 claim petition was filed by Jahir and his minor son Jishan jointly on account of the injuries received to them. Injured Jahir received injury over the head, stomach, back, left leg toe, left hand in thumb. For those injuries compensation to the tune of Rs. 2,80,000/- was prayed but Claim Tribunal rejected it. For the injuries received to Jishan over the head, right leg, knee, having fracture at tibia fibula bone and the permanent disability (Ex.P-3) the compensation to the tune of Rs. 6,63,000/- was claimed.

5. In claim case No. 24/2007, Ashraf and his minor son Bilal have filed a joint claim for the injuries received to them. Ashraf received the fracture in left hand and left leg ankle. Certificate of permanent disability (Ex P-5) was filed. However, looking to the injuries compensation to the tune of Rs. 12,37,000/- was prayed for. While in case of Bilal, he received fracture of left leg femur bone having permanent disability as per (Ex.P-12). However, compensation to the tune of Rs. 4,66,000/- was prayed for.

6. In claim case No. 32/2007 injured Mustafa Hussain received fracture of ankle bone and right leg and certificate of permanent disability (Ex.P-1). However, the compensation to the tune of Rs. 5,76,000/-has been prayed for.

7. It is not in dispute that respondent No. 2 is the owner of Mahindra Pickup Jeep bearing registration No. M.P.14-G.A./0157 which was driven by driver Dinesh. It is also not disputed that driver was possessing a driving license which was valid up to 8/1/2027. It is also not disputed that the said vehicle was insured with the National Insurance Company Limited bearing policy No. 320303/3106/6350008491 for the period 11/5/2006 to 10/05/2007. It is also not in dispute that all the claimants have filed claim petition u/s 166 of the Motor Vehicles Act seeking compensation as specified in their respective claims.

8. Learned Claims Tribunal recorded the finding that the accident has taken place on account of rash and negligent driving of the driver of the offending vehicle Mahindra Pickup Jeep bearing registration No. M.P.14-G.A./0157 on 10.5.2007. It has further been held that the said jeep was owned by respondent No. 2 and insured with National Insurance Company Limited. The finding has also been recorded that the respondents are jointly and severally liable to pay compensation because violation of the terms and conditions of policy has not been proved, accordingly, awarded the sum which shall be reflect from the following tables:--

9. Learned Counsel appearing for claimants has argued at length, inter-alia, contending that the compensation awarded in a case of death of Areef Rs. 3,42,000/- is inadequate accepting the earning of Rs. 2,500/- per month and applying the multiplier of 17 after deduction of 1/3 towards personal expenses, however, compensation so awarded may be reasonably enhanced accepting his earning as pleaded in the claim petition.

10. Learned counsel for the claimants by placing heavy reliance on the judgments of the Apex Court in the cases of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , P.S. Somanathan and Others Vs. District Insurance Officer and Another, , Amrit Bhanu Shali and Others Vs. National Insurance Co. Ltd. and Others, , has contended that even in a case of bachelor's death multiplier shall be applicable on the age of deceased with deduction 1/3 and not as per the age of the claimants after and one half deduction. Thus, Claims Tribunal has rightly deducted 1/3 amount towards expenses and applying the multiplier on the age of the deceased awarded the sum, therefore, interference is not called for, however, by placing reliance on the Full Bench judgment of this Court in the case of Jabalpur Bus Operators Association and Others Vs. State of M.P. and Another, , contended that later decision in the cases of Amrit Bhanu Shali and others (supra) and P.S. Somanathan and others (supra) are binding, because in those cases the judgment of Sarla Verma (supra) has been considered therefore, on the instance of the insurance company the deduction towards personal expenses cannot be made 1/2 and the multiplier as per the age of claimant in case of bachelor's death cannot be applied for. In case of death of Ashraf, the earning so accepted by the Tribunal is adequate because he was the owner of the truck and troller, however, accepting the reasonable earning looking to material brought on record, adequate amount of compensation may be awarded. In other case of injuries i.e. Jahir and Jishan, the claim of Jahir has wrongly been rejected and the finding so recorded is perverse. It is also submitted that reasonable amount of compensation may be awarded to Jahir and Jishan directing enhancement. Similarly, in the case of Ashraf, Bilal and Mustafa and looking to the injuries received to them, amount of compensation as awarded is un-reasonable which may also be enhanced.

11. Per contra, learned counsel representing owner driver and the Insurance Company, have strenuously urged that as per Section 167 of the Motor Vehicles Act, adequate, just and reasonable amount of compensation may be awarded. In the present case dependents are the mother, father, major sister, and brother, therefore, deduction 1/3 made by the Tribunal is inappropriate. In such a case 1/2 deduction ought to be made and the brothers and sisters cannot be said to be the dependents on deceased because his father is alive. It is also submitted that the multiplier at the age of the claimant would be applicable in Bachelor's death. In addition to it, it is submitted that deceased was the owner of the Troller but the same was given by the father Jakir Husain to him, however deceased was not having any independent earning, therefore, earning accepted by the

Tribunal Rs. 2,500/- is just and proper and the compensation as awarded is not liable to be enhanced in the facts of the case.

12. While learned counsel for the Insurance Company placing reliance on the judgment of the Apex Court in the case of General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, . three Judges Bench judgment in the case of U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, which is relied upon in the case of Sarla Verma (supra), at the Division Bench of Apex Court. It is submitted that the observations made in three Judges Bench in the case of Trilok Chandra and others (supra) regarding applicability of the multiplier on the age of parents in bachelor's death has been considered in the judgment of Sarla Verma (supra) also. It is further contended that in the judgment of Sarla Verma (supra), as well as the other two judgments relied upon by learned counsel for the claimants, three Judges Bench of the Apex Court in the case of New India Assurance Company Ltd. Vs. Smt. Shanti Pathak and Others, has not been considered. It is also said that other two Judges Bench of Apex Court in the case of Gyanchand Jain and another v. Parmanand and others, 2003 ACJ 2153 has considered and explained on the issue of applicability of the multiplier. In addition to the same, the Apex Court applying the judgment of Sarla Verma (supra) in the case of Shakti Devi Vs. New India Insurance Co. Ltd. and Another, , National Insurance Company Ltd. Vs. Shyam Singh and Others, and also in a case of New India Assurance Company Ltd. Vs. Yogesh Devi and Others, applied the multiplier as per the age of claimant in a case of bachelor's death after deducting 1/2. In such circumstances, compensation has rightly been awarded by the Tribunal. Learned counsel for the Insurance Company as well as the owner and driver submitted on the of enhancement as prayed by the claimant, that the Claim Tribunal in the facts and circumstances of the case, has adequately awarded the amount of compensation which is not liable to be interfered with.

13. Learned counsel for the claimants has also placed reliance on a Single Bench judgment of this Court in the case of Kamlabai and another v. Ashish and others reported in 2011 (3) ACC 848 wherein in a bachelor's death, multiplier on the age of deceased has been made applicable while the counsel for insurance Company has placed reliance on another judgment of Single Bench of this Court in the case of Narsingh and others v. Ghasiram and others passed in M.A. No. 2754/2007 decided on 11/12/2012, and contended that the multiplier as per the age of the parents shall be applicable. In such circumstances, controversy as involved in the case is required to be resolved on the issue of applicability of the multiplier in a case of bachelor's death.

14. After hearing learned counsel appearing on behalf of the parties, first of all, the law led down by various judgments of Hon''ble Apex Court is required to be considered. In the said context, the Division Bench of Apex Court in the case of Susamma Thomas and others (supra) has taken note that in a fatal accident cases, accepted measure of damages awarded to the dependents is the

pecuniary loss suffered by them as a result of death to determine "how many members and the widow are suffered due to death". "In answer to the same, Lord Wright in *Davies v. Powell Duffryn Associated Collieries Ltd.*, (1992) AC 601 observed as under:--

The starting point is the amount of wages which the deceased was earning, the ascertainment of which to some extent may depend on the regularity of his employment. Then there is an estimate of how much was required or expended, for his own personal and living expenses. The balance will give a datum or basic figure which will generally be turned into a lump sum by taking a certain number of years' purchase. That sum, however, has to be taxed down by having due regard to uncertainties, for instance, that the widow might have again married and thus ceased to be dependent, and other like matters of speculation and doubt.

15. The observation of Lord Macmillan has been considered that the measure of damage is the pecuniary loss suffered and is likely to be suffered by each dependent. Thus, "except where there is express statutory direction to the contrary, the damages to be awarded to a dependent of a deceased person to the fatal accident must taken into account any pecuniary benefit accruing to the dependent in consequence of the death of the deceased. It is the net loss on balance which constitutes the measure of damages." The observation of Lord Wright has also been considered that the actual pecuniary loss of each individual entitled to sue can only be ascertained by balancing on the one hand, the loss to him of the future pecuniary benefit, and, on the other, any pecuniary advantage which from whatever source comes to him by reason of the death. The aforesaid principle has been adopted in India in the case of *Gobald Motor Service Ltd. and Another Vs. R.M.K. Veluswami and Others*, . Considering the aforesaid in the case of *Susamma Thomas and others* (supra), the Court observed that the assessment of damages to compensate the dependents is beset with difficulties because from the nature of things, it has to take into account many imponderables, e.g. the life expectancy of the deceased and the dependents, the amount that the deceased would have earned during the remainder life, the amount that he would have contributed to the dependents during that period, the chances that the deceased may not have lived or the dependents may not lived up to the estimated remaining period of their life expectancy, the chances that the deceased might have got better employment or income or might have lost his employment or income altogether. In the said context, it is observed that the manner to arrive at the damages is to ascertain the net income of the deceased available for the support of himself and his dependents, and to deduct therefrom such part of his income as the deceased was accustomed to spend upon himself, as regard both self-maintenance and pleasure and to ascertain what part of his net income the deceased was accustomed to spend for the benefit of the dependents. Then remaining income should be capitalized by multiplying it by a figure representing the proper number of years purchased. In the said context, it is observed that much of the calculation necessarily remains

in the realm of hypothesis "and in that region arithmetic is a good servant but a bad master" since there are so often many imponderables. In every case "it is the overall picture that matters" and the Court must try to assess at best as it can the loss suffered. In the said context, two methods were adopted for determination and for calculation of compensation in fatal accident actions, the first is multiplier method borrowed from *Davies v. Powell Duffryn Associate Collieries Ltd.* (supra) and second in *Nance v. British Columbia Electric Railway Co. Ltd.*, (1951) AC 601. In the said context, it has been observed that the multiplier method involves the ascertainment of the loss of dependency or the multiplicand having regard to the circumstances of the case and capitalizing the sum by an appropriate multiplier. The choice of the multiplier is determined by the age of the deceased (or that of the claimants, whichever is higher) and by the calculation as to what capital sum, if invested at a rate of interest appropriate to a stable economy, would yield the multiplicand by way of annual interest. In ascertaining this, regard should also be had to the fact that ultimately the capital sum should also be consumed up cover the period for which the dependency is expected to last.

16. Thereafter, in the case of *Trilokchandra* (supra) three judges Bench of Hon'ble Apex Court has Considered the issue regarding applicability of the multiplier in the case of bachelor's death. In the said case the judgment of *Susamma Thomas* (supra) was considered and it was held that the maximum multiplier can be upto 18 and not 24 as was held in the said case. In para 18, the Court observed as under:--

We must at once point out that the calculation of compensation and the amount worked out in the Schedule suffer from several defects. For example, in item No. 1 for a victim aged 15 years, the multiplier is shown to be 15 years and the multiplicand is shown to be Rs. 3,000/-. The total should be Rs. 3000/- x 15 = Rs. 45,000/-but the same is worked out at Rs. 60,000/-. Similarly, in the second item the multiplier is 16 and the annual income is Rs. 9,000/-; the total should have been Rs. 1,44,000/-but is shown to be Rs. 1,71,000/-. To put it briefly, the Table abounds in such mistakes. Neither the Tribunal is nor the courts can go by the ready reckoner. It can only be used as a guide. Besides, the selection of multiplier cannot in all cases be solely dependent on the age of the deceased. For example, if the deceased, a bachelor, dies at the age of 45 and his dependents are his parents, age of the parents would also be relevant in the choice of multiplier. But these mistakes are limited to actual calculations only and not in respect of other items. What we propose to emphasize is that the multiplier cannot exceed 18 years" purchase factor. This is the improvement over the earlier position that ordinarily it should not exceed 16. We thought it necessary to state the correct legal position as courts and Tribunals are using higher multiplier as in the present case where the Tribunal used the multiplier of 24 which the High Court raised to 34, thereby showing lack of awareness of the background of the multiplier system in *Davies*" case, (supra).

17. In the case of Gyanchand Jain and another (supra), the Division Bench of Apex Court in the matter of applicability of the multiplier in para-4 observed as under:--

4. Claimants, being aggrieved, filed the SLP in which leave was granted. The learned counsel appearing for appellants argued that in the present case, keeping in view the age of the deceased, multiplier of 18 ought to have been applied. We do not find any merit in this submission. It is not disputed that maximum multiplier that could be applied is 18. Since the deceased was unmarried and the age of the mother was 49 years and that of the father was 55 years, the total loss of dependency has to be determined keeping in view the age of the parents. It is well established that age of claimants when they happen to be parents in the case of a deceased unmarried child is a relevant factor for determining the multiplier to be adopted. Under such circumstances, the multiplier applied by the Tribunal which was upheld by the High Court is appropriate.

18. Again the issue of applicability of the multiplier in the case of bachelor's death has come up for consideration before the three Judges' Bench of Hon'ble Apex Court in the case of Shanti Pathak & Others wherein, Hon'ble Apex Court has held as under:--

Considering the income that was taken, the foundation for working out the compensation cannot be faulted. Monthly contribution was fixed at Rs. 3,500. In the normal course we would have remitted the matter to the high Court for consideration on the materials placed before it. But considering the fact that the matter is pending since long, it would be appropriate to take the multiplier of 5 considering the fact that the mother of the deceased is about 65 years at the time of the accident and age of the father is more than 65 years. Taking into account the monthly contribution at Rs. 3,500 as held by the Tribunal and the High Court, the entitlement of the claim would be Rs. 2,10,000. The same shall bear interest at the rate of 7.5 percent per annum from the date of the application for compensation. Payment already made shall be adjusted from the amount due.

19. In view of the forgoing facts, it is clear that the principles adopted with respect to the applicability of the multiplier Davies's case (supra) has been recognized in India. Three Judges Bench of the Supreme Court in the case of Trilokchandra (supra) has also applied the multiplier either as per the age of the deceased or as per the age of the claimant whichever is higher. Thereafter, before the Hon'ble Supreme Court in the case of Ramesh Singh and Another Vs. Satbir Singh and Another, , the aforesaid issue has brought for consideration. After considering various judgments including the judgment in the case of Trilokchandra Hon'ble Apex Court in para 5 relying upon the judgment of the Oriental Insurance Co. Ltd. Vs. Syed Ibrahim and Others, held that the multiplier applied on the age of claimant by the Claims Tribunal is just and proper. The observations of Hon'ble Supreme Court in the said judgment are relevant, which

reads as under:--

5.-The learned counsel relying on the Second Schedule to the Act contended that the deceased being about 22 years of age, a multiplier of 16 or 17 should have been granted. It is undoubtedly true that section 163-A was brought on the statute book to shorten the period of litigation. The burden to prove negligence or fault on the part of driver and other allied burdens u/s 140 or 166 were really cumbersome and time-consuming. Therefore, "as a part of social justice, a system was introduced via section 163-A wherein such burden was avoided and thereby a speedy remedy was provided. The relief u/s 163-A has been held not to be additional be alternate. The Schedule provided has been threadbare discussed in various pronouncements including Deepal Girishbhai Soni and Others Vs. United India Insurance Co. Ltd., Baroda, . Second Schedule is to be used not only referring to age of victim but also other factors relevant therefore. Complicated question of facts and law arising in accident cases cannot be answered all times by relying on mathematical equations. In fact in U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, , Ahmedi, J. (as the Chief Justice then was) has pointed out the shortcomings in the said Schedule and has held that the Schedule can only be used as a guide. It was also held that selection of multiplier cannot in all cases be solely dependent on the age of the deceased. If a young man is killed in the accident leaving behind aged parents who may not survive long enough to match with a High multiplier provided by the Second Schedule then the court has to offset such high multiplier balance the same with the short life expectancy of the claimants. That precisely has happened in this case. Age of the parent was held as a relevant factor in case of minor's death in recent decision in Oriental Insurance Co. Ltd. Vs. Syed Ibrahim and Others, . In our considered opinion, the courts below rightly struck the said balance.

20. Thereafter, in the case of Sarla Verma (supra), the said issue has come up for consideration wherein also the recognition of "Davies Theory" has been affirmed in a case falling u/s 166 of the Motor Vehicles Act. In the case of Sarla Verma, it is laid down that as per schedule of Motor Vehicles Act, the applicability of the multiplier is on the basis of the age. It has also been observed that in case of Bachelor's death, the multiplier may be made applicable as per the age of the deceased or as per the age of the claimant whichever is higher. Thus, it is clear that in Shakti Devi's case (supra) the two Judges Bench of Supreme Court considering the judgment of Sarla Verma itself, has observed in para 12 as under:--

12. So far as the present case is concerned, at the time of accident, the deceased was 22-year old and not married. He was running a general store from his house and earning about Rs. 1000/- per month from the business. In Sarla Verma, this Court stated that where the deceased was self-employed, the court shall usually take only the actual income at the time of death; a departure from there should be made only in rare and exceptional cases involving special

circumstances. Does the present case involve special circumstances? In our view, it does. The evidence has come that the deceased was to get employment in the forest department after the retirement of his father. Obviously the evidence is based on the government policy. The deceased, thus, had a reasonable expectation of the government employment in near future. In the circumstances, the actual income at the time of deceased's death needs to be revised and taking into consideration the special circumstances of the case, in our view, the monthly income of the deceased deserves to be fixed at Rs. 2000/-. As regards the personal expenses, since the deceased was not married, we are satisfied that the principle stated in *Sarla Verma* 3 that 50% should be treated as the personal and living expenses of the bachelor may be applied. Seen thus, the annual loss of dependency would come to Rs. 12,000/-. Insofar as multiplier is concerned, the Tribunal applied the multiplier of 8. Learned counsel for the appellant argued that the multiplier of 18 should have been applied keeping in view the age of the deceased. The argument is devoid of any substance. In a case where the age of the claimant is higher than the age of the deceased, the age of claimant and not the age of the deceased has to be taken into account for the capitalization of the lost dependency. It is so because the choice of multiplier is determined by the age of the deceased or that of the claimant, whichever is higher. The exact age of the claimant has not come on record. As per the evidence of AW1 (Pankaj Kumar Sinha), on the date of his deposition, the claimant's age was about 63 years. The date of deposition of AW-1 is not available. The accident occurred in 1991 and the date of decision of the Tribunal is June 6, 2000. Ordinarily, the Tribunal would not have taken much time after the evidence was complete. We may assume that the statement of AW-1 was recorded somewhere in 1998 or 1999. If that be so, the age of the claimant on the date of the accident would be about 54-55 years. As per the table prepared in *Sarla Verma*, the multiplier of 11 would, therefore, be applicable. By multiplying the annual loss of dependency (Rs. 12000/-) with the multiplier of 11, the claimant becomes entitled to the compensation in the sum of Rs. 1,32,000/-. The compensation determined by the Tribunal at Rs. 60,000/- and confirmed by the High Court in the appeals manifestly erroneous and is enhanced to Rs. 1,32,000/-.

21. In subsequent three judgments in the case of *P.S. Somnathan & another* (supra), *Shyam Singh* (supra) and *Amrit Bhanu Shali* (supra) Hon'ble the Supreme Court though considered the judgment of *Sarla Verma*, but without considering the case of *Shakti Devi* held that the multiplier or the age of deceased should be applicable. Thus, it is clear that the three Judges' Bench judgment in the case of *Shanti Pathak* and two Judges' Bench judgment of *Shakti Devi* which were of prior dates and not considered in the subsequent said three judgments of Hon'ble the Supreme Court. In such circumstances, as per the judgment in the case of *Jabalpur Bus Operator Association* (supra), this Court is bound by the earlier three Judges' Bench judgment and the two Judges' Bench judgment which has not been considered in the subsequent judgments.

22. In addition to the aforesaid, the principle of the law applicability in India

recognized in principle as specified in Davies' Case. In Davies's case on the point of applicability of the multiplier, it should be applicable either on the age of the deceased or on the age of the claimant whichever is higher. Therefore, in the considered opinion of this Court the multiplier on the age of the claimants would be applicable if their age is more than the age of the deceased. In such circumstances, the two judgments of learned Single Judge of this Court in the case of Kamla Bai (supra) and Narsingh (supra) are hereby explained. Thus, As per the aforesaid discussion, now it is apparent that in a case of bachelor's death one half deduction towards personal expenses may be made from the earning of deceased to capitalize the loss of dependency, applying the multiplier either at the age of the deceased or as per the age of the claimant whichever is higher.

23. In the context of the said legal position, if the case of the deceased Arif is being considered, then as per the documents available on record (Exhibit P-353) it is clear that he was the registered owner of the Trailer RJ-33-GA-0173. From the document Exhibit P-305 to Exhibit P-351 the Trailer was financed and every month EMI of Rs. 27,055/- was paid to creditor. In the said context the earning of the deceased in addition to the aforesaid repayment further Rs. 8000/- may safely be accepted, looking to the fact, he was not income tax payee. Thereby the annual earning comes to Rs. 96,000/-. On reducing one half towards personal expenses and applying the multiplier of 9 as per the age of the claimant, the loss of dependency comes to Rs. 4,32,000/-. On adding Rs. 25,000/- in conventional heads i.e. funeral loss of estate and loss of love & affection then, the total sum of compensation comes to Rs. 4,57,000/-. On deducting the amount awarded by the Tribunal Rs. 3,42,000/- net enhancement comes to Rs. 1,15,000/-. The claimant would be entitled to receive the said enhanced amount along with interest.

24. In the Claim Case No. 14/2007, Ashfaq, aged 43 has died. The claimants are the widow, four sons, a daughter, mother and father. As per the pleadings and the evidence brought on record, it is apparent that he was the owner of the Truck RJ-33-GA-173 and the Trolley RJ-33-GA-0470. It has also been brought on record that he has not paid income tax for the financial year 2007-08, but he was the driver of heavy transport vehicle, however his earning can safely be accepted of Rs. 10,000/- per month which annually comes to Rs. 1,20,000/-. Looking to number of dependents, if 1/4th is deducted towards the personal expenses, then loss of dependency comes to Rs. 90,000/-. As per the age of the deceased, if multiplier of 14 is applied for, then loss of dependency comes to Rs. 12,60,000/-. By adding Rs. 25,000/- in funeral consortium, loss of estate and love & affection, the total compensation comes to Rs. 12,85,000/-. On deducting the amount so awarded by the Tribunal, the net enhanced amount comes to Rs. 6,83,000/- and payable along with interest.

25. The Claim case No. 23/2007 has been filed seeking compensation in case of injuries received by Jahir Hussain and Jishan. The claim petition of the Jahir was dismissed by the Claims Tribunal because the MLC of claimant Jahir was not

produced. While in case of Jishan, who received fracture of Tibia Fibula in his right leg and a certificate of permanent disability has also been produced, the Tribunal has awarded Rs. 19,138/-only.

26. On perusal of the record the MLC of Jahir (Exhibit P-29) is available and he has received the injuries over the head, face, shoulder and other parts of the body, for which he was hospitalized for a day and the medical papers are also produced on record. Thus, the finding recorded by the Claims Tribunal to reject the claim petition of Jahir due to non-availability of MLC is perverse. However looking to the MLC and papers of medical expenses of injured Jahir and also looking to the fact he was not, having any bony injury, in lump sum Rs. 20,000/- deserves to be awarded. While in case of Jishan, who suffered a fracture of Tibia Fibula bone in his right leg and remained hospitalized for about five days in Kota, medical expenses incurred by him amounting to Rs. 14,138/-, however the compensation so awarded by the Tribunal appears to be meager, therefore, enhanced by Rs. 31,000/- in lump sum. Thus, the finding of rejection of the claim petition of Jahir Hussain is hereby set aside. It is held that Jahir would be entitled to receive Rs. 20,000/-, while in case of Jishan, the compensation awarded is enhanced by Rs. 31,000/- and payable alongwith interest.

27. In claim case No. 32/2007, the injured has suffered a fracture of right ankle bone, right leg and remained in hospital for a day having expenses of Rs. 3,298/- alongwith certificate of permanent disability. But the Tribunal has merely awarded Rs. 9,000/-. In the considered opinion of this Court looking to the documents (Exhibit P-200 to P-202), Discharge-Ticket (Exhibit P-203) and the medical expenses, in lump sum Rs. 25,000/- further deserves to be awarded. Making the total compensation of Rs. 34,000/-. The enhanced amount shall payable alongwith interest.

28. In Claim Case No. 24/2007, Ashraf and Bilal are the injured. Ashraf received injury in his left hand humerus bone and in left leg Ankle, while Bilal is having fracture of Femur bone in his left leg. Both were hospitalized for 5-6 days. The Tribunal in the case of Ashraf awarded Rs. 61,278/-out of which Rs. 50,229/- in Medical Expenses. Though the certificate of permanent disability is available on record, but it has not been believed. Similarly, in case of Bilal medical expenses of Rs. 10,629/- are available, but the Tribunal has awarded Rs. 19,138/-. After over all consideration of the documents Exhibit P-46 to Exhibit P-155 and 199 and also the documents P-156 to P-195 and other documents, in the considered opinion of this Court, the claimant Ashraf Hussain would be entitled to receive the amount of Rs. 70,000/- in addition and in case of Bilal, he is entitled to Rs. 40,000/- in addition lump sum respectively. Thus in case of Ashraf, the total compensation comes to Rs. 1,31,278/- while in case of Bilal, it comes to Rs. 59,138/-. The enhanced amount shall payable alongwith interest.

29. In view of the foregoing discussion, it is to be held that in case of Bachelor's death, where mother and father are claimants, the deduction one half may be made. In exceptional cases, the court may look into facts the and circumstances

of the individual case. It is to be further observed that as per the Motor Vehicles Act in second schedule, the multiplier at the age of the deceased would be applicable. But where the dependents are the mother and father, who are old aged, in such case looking to the expectancy of life of dependents, the suitable multiplier may be made applicable, applying the principle of the Devis's case that while calculating the compensation, the multiplication as per the age of the deceased or as per the age of the claimants whichever is higher, would be applicable. Accordingly, MA No. 69/2011 is hereby allowed in part and the enhancement of Rs. 1,15,000/- is directed. Similarly M.A. No. 77/2011 is also allowed in part and the enhancement of Rs. 6,83,000/- is directed. In M.A. No. 73/2011 is allowed in part and it is held that the rejection of the claim of Jahir is illegal and the findings are perverse, however such findings are set aside and claimant Jahir would be entitled to receive the amount of Rs. 20,000/- while Jishan would be entitled to receive the enhanced amount of Rs. 30,000/-. M.A. No. 85/2011 is also allowed in part and the enhancement of Rs. 25,000/- in addition is directed M.A. No. 81/2011 is also allowed in part. In the said case, for the injuries received by Ashraf, he would be entitled to receive the enhanced amount of Rs. 70,000/- and for the injuries of Bilal, the enhancement of Rs. 40,000/- is directed. It is made clear here that the claimants in all the appeals would be entitled to receive the amount awarded or enhanced amount along with interest @ 7.5% p.a. from the date of filing of the claim petition till its realization. In the facts and circumstances of the case, parties to bear their own costs.