
(2016) 12 AHC CK 0080

In the Allahabad High Court

Case No : First Appeal From Order No. 686 of 1993

National Insurance Company Ltd.

APPELLANT

Vs

Smt. Sunita Sharma

RESPONDENT

Date of Decision : 16-12-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2017) 1 ADJ 105 : (2017) 4 ALLJ 170

Hon'ble Judges : Krishna Murari and Dr. Kaushal Jayendra Thaker, JJ.

Bench : Division Bench

Advocate : Niraj Upadhyaya, Advocate, for the Appellant in First Appeal From Order No. 674 of 1993; P.K. Mukherji, Advocate, for the Respondent in First Appeal From Order No. 674 of 1993; Neeraj Upadhyay, Advocate, for the Respondent in First Appeal From Order No. 6

Final Decision : Dismissed

Judgement

Krishna Murari, J. - These are two appeals filed under Section 173 of the Motor Vehicles Act, 1988 (for short the "Act") against the judgement and award dated 07.04.1993 passed by the Motor Accident Claims Tribunal, Mathura awarding a sum of Rs.4,30,000/- as compensation on account of death of one Virendra Sharma in a motor accident.

First Appeal no. 686 of 1993 has been filed by the Insurance Company alleging that the award made is excessive. Whereas First Appeal No. 674 of 1999 has been filed by the claimants seeking enhancement of the award.

The two appeals are to be considered in the backdrop of the following facts:-

Virendra Sharma met with a fatal accident on 04.12.1989 at about 11.30 a.m. near Van Chetana Kendra on Vrindavan-Mathura Road while he was going on his scooter. He was knocked down by Ambassador car bearing registration no. UGE1299, which was being driven rashly and negligently. He suffered grievous injuries and underwent treatment at various hospital from 04.12.1989 to

26.12.1989 and ultimately died on 26.12.1989 at Ganga Ram Hospital, Delhi. At the time of accident, the deceased was aged about 26 years and was a government employee drawing monthly salary of Rs.2420/-.

2. The proceedings were contested by the owner and driver of the offending vehicle as well as Insurance Company by filing written statement.

3. Tribunal on the basis of the pleadings of the parties and after analysing the evidence brought on record, both oral and documentary, held that accident was caused due to rash and negligent driving of the offending ambassador car. Tribunal further held that the driver of the offending vehicle was having a valid driving license and it was duly insured with the Insurance Company. Tribunal determined the dependency of Rs.3,60,000/-, and further awarded a sum of Rs.5000/- towards suffering and pain, Rs.20,000/- towards loss of love and affection and Rs.15,000/- towards mental pain and untimely death. Tribunal also awarded a lump sum of Rs.30,000/- towards funeral expenses, medical expenses in treatment and repair of the scooter. In this manner, a total sum of Rs.4,30,000/- was awarded by the Tribunal towards compensation. Simple interest 12% per annum from the date of making of the application till actual payment was also awarded.

The Insurance Company has challenged the award only on the question of quantum. It is submitted that compensation awarded is excessive. Lump sum deduction has not been granted. It is also submitted that a sum of Rs.70,000/- granted under non-pecuniary heads is excessive.

4. On the other hand, the appeal seeking enhancement of the compensation has been filed by the claimants on the grounds that the Tribunal has failed to calculate the compensation according to the longevity of the life, future prospects of promotion, revision of pay, annual increments etc. have not at all been taken into account. It is also submitted that the amount awarded is too meagre.

5. We have considered the argument advanced by Sri P.K. Sinha, learned counsel for the Insurance Company and Sri Neeraj Upadhyay for the claimants.

6. The Tribunal has calculated the compensation by taking monthly salary of the deceased as Rs.2420/- per month. The Tribunal disbelieved the oral evidence that the deceased was spending Rs.1500/- per month on the family and without there being evidence, held that he was spending Rs.1000/- per month on the family. The Tribunal further applied multiplier of 30 and arrived at the loss of dependency to the family as Rs.3,60,000/-. The Tribunal failed to take into account the fact that the deceased had 34 years of service left at the time of death and would have earned annual increments and pay revision during that period.

It is noticeable that though the Tribunal held that the deceased was not suffering from any illness or vice and thus, his average age would be 70 years and also

had a minor daughter yet ignoring the aforesaid aspect and also the annual increment, pay revision and future prospects determined the compensation. We also do not find any good reason recorded in the judgment for deducting a sum of Rs.1420/- out of the salary towards personal expenses nor there exists any good reason for applying multiplier of 30. Even damages awarded under the non-pecuniary heads such as funeral expenses, loss of love and affection etc. is also on the extremely lower side and without any justification. Before issues of applying multiplier and future prospects to be awarded came to be settled by various judicial pronouncements of the Hon''ble Apex Court, there is considerable inconsistency in the decisions of the courts and the tribunals as some courts/tribunals adopted Nance method enunciated in *Nance v. British Columbia Electric Railways Co. Ltd.*, (1951) 2 All ER 448 and some courts/tribunals adopting Davies method enunciated in *Davies v. Powell Duffryn Associated Collieries Ltd.*, (1942) 1 All ER 657.

7. Difference in two methods was considered by the Hon''ble Apex Court in the case of *Kerala State Road Transport Corporation v. Susamma Thomas*, (1994) 2 SCC 176. Hon''ble Apex court after detail consideration of the two methods preferred the Davies method. The principles culled out by the Hon''ble Apex Court in the case of *Susamma Thomas* (Supra) can be summarised as under :

"In fatal accident action, the measure of damage is the pecuniary loss suffered and is likely to be suffered by each dependant as a result of the death. The assessment of damages to compensate the dependants 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 dependants, the amount that the deceased would have earned during the remainder of his life, the amount that he would have contributed to the dependants during that period, the chances that the deceased may not have lived or the dependants may not live 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."

"The matter of arriving at the damages is to ascertain the net income of the deceased available for the support of himself and his dependants, and to deduct therefrom such part of his income as the deceased was accustomed to spend upon himself, as regards 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 dependants. Then that should be capitalized by multiplying it by a figure representing the proper number of year''s purchase."

"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 multiplicand 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 over the period for which the dependency is expected to last."

"It is necessary to reiterate that the multiplier method is logically sound and legally well-established. There are some cases which have proceeded to determine the compensation on the basis of aggregating the entire future earnings for over the period the life expectancy was lost, deducted a percentage therefrom towards uncertainties of future life and award the resulting sum as compensation. This is clearly unscientific. For instance, if the deceased was, say 25 year of age at the time of death and the life expectancy is 70 years, this method would multiply the loss of dependency for 45 years virtually adopting a multiplier of 45 and even if one-third or one-fourth is deducted therefrom towards the uncertainties of future life and for immediate lump sum payment, the effective multiplier would be between 30 and 34. This is wholly impermissible."

8. Again in the case of *U.P. State Road Transport Corporation v. Trilok Chandra*, (1996) 4 SCC 362, the Hon"ble Apex Court reiterated the view taken in *Susamma Thomas (Supra)* giving preference to Davies method.

In the case of *Sarla Verma (Smt) and others v. Delhi Transport Corporation and another*, (2009) 6 SCC 121, in order to maintain uniformity and consistency in determination of compensation the Hon"ble Apex Court laid down the following steps to be followed:

Step 1 (Ascertaining the multiplicand) The income of the deceased per annum should be determined. Out of the said income a deduction should be made in regard to the amount which the deceased would have spent on himself by way of personal and living expenses. The balance, which is considered to be the contribution to the dependant family, constitutes the multiplicand.

Step 2 (Ascertaining the multiplier) Having regard to the age of the deceased and period of active career, the appropriate multiplier should be selected. This does not mean ascertaining the number of years he would have lived or worked but for the accident. Having regard to several imponderables in life and economic factors, a table of multipliers with reference to the age has been identified by this Court. The multiplier should be chosen from the said table with reference to the age of the deceased.

Step 3 (Actual calculation) The annual contribution to the family (multiplicand) when multiplied by such multiplier gives the "loss of dependency" to the family.

Thereafter, a conventional amount in the range of Rs. 5,000/- to Rs.10,000/- may be added as loss of estate. Where the deceased is survived by his widow, another conventional amount in the range of 5,000/- to 10,000/- should be added under the head of loss of consortium. But no amount is to be awarded under the head of pain, suffering or hardship caused to the legal heirs of the

deceased.

The funeral expenses, cost of transportation of the body (if incurred) and cost of any medical treatment of the deceased before death (if incurred) should also added.

9. The issue of deduction towards personal and living expenses were also subject matter of consideration before the Hon"ble Apex Court in the case of Sarla Verma (Supra). It has been observed in paragraphs 26 to 32 as under :

25. We have already noticed that the personal and living expenses of the deceased should be deducted from the income, to arrive at the contribution to the dependents. No evidence need be led to show the actual expenses of the deceased. In fact, any evidence in that behalf will be wholly unverifiable and likely to be unreliable. Claimants will obviously tend to claim that the deceased was very frugal and did not have any expensive habits and was spending virtually the entire income on the family. In some cases, it may be so. No claimant would admit that the deceased was a spendthrift, even if he was one.

26. It is also very difficult for the respondents in a claim petition to produce evidence to show that the deceased was spending a considerable part of the income on himself or that he was contributing only a small part of the income on his family. Therefore, it became necessary to standardize the deductions to be made under the head of personal and living expenses of the deceased. This lead to the practise of deducting towards personal and living expenses of the deceased, one-third of the income if the deceased was a married, and one-half (50%) of the income if the deceased was a bachelor. This practise was evolved out of experience, logic and convenience. In fact one-third deduction, got statutory recognition under Second Schedule to the Act, in respect of claims under Section 163A of the Motor Vehicles Act, 1988 ("MV Act" for short). But, such percentage of deduction is not an inflexible rule and offers merely a guideline.

27. In *Susamma Thomas*, it was observed that in the absence of evidence, it is not unusual to deduct one-third of the gross income towards the personal living expenses of the deceased and treat the balance as the amount likely to have been spent on the members of the family/dependants.

28. In *UPSRTC v. Trilok Chandra* [1996 (4) SCC 362], this Court held that if the number of dependents in the family of the deceased was large, in the absence of specific evidence in regard to contribution to the family, the Court may adopt the unit method for arriving at the contribution of the deceased to his family. By this method, two units is allotted to each adult and one unit is allotted to each minor, and total number of units are determined. Then the income is divided by the total number of units. The quotient is multiplied by two to arrive at the personal living expenses of the deceased. This Court gave the following illustration:

"X, male, aged about 35 years, dies in an accident. He leaves behind his widow

and 3 minor children. His monthly income was Rs. 3500. First, deduct the amount spent on X every month. The rough and ready method hitherto adopted where no definite evidence was forthcoming, was to break up the family into units, taking two units for an adult and one unit for a minor. Thus X and his wife make $2+2=4$ units and each minor one unit i.e. 3 units in all, totalling 7 units. Thus the share per unit works out to Rs. $3500/7=Rs. 500$ per month. It can thus be assumed that Rs. 1000 was spent on X. Since he was a working member some provision for his transport and out-of-pocket expenses has to be estimated. In the present case we estimate the out-of-pocket expense at Rs. 250. Thus the amount spent on the deceased X works out to Rs. 1250 per month per month leaving a balance of Rs. $3500-1250=Rs.2250$ per month. This amount can be taken as the monthly loss of X's dependents."

29. In *Fakeerappa v. Karnataka Cement Pipe Factor* - 2004 (2) SCC 473, while considering the appropriateness of 50% deduction towards personal and living expenses of the deceased made by the High Court, this Court observed:

"What would be the percentage of deduction for personal expenditure cannot be governed by any rigid rule or formula of universal application. It would depend upon circumstances of each case. The deceased undisputedly was a bachelor. Stand of the insurer is that after marriage, the contribution to the parents would have been lesser and, therefore, taking an overall view the Tribunal and the High Court were justified in fixing the deduction."

In view of the special features of the case, this Court however restricted the deduction towards personal and living expenses to one-third of the income.

30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in *Trilok Chandra*, the general practice is to apply standardized deductions. Having considered several subsequent decisions of this court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependant family members is 4 to 6, and one-fifth (1/5th) where the number of dependant family members exceed six.

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent/s and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and

earning, or married, or be dependant on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where family of the bachelor is large and dependant on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third."

10. Hon"ble Apex Court after considering the multiplier indicated in the case of Susamma Thomas (Supra), Trilok Chandra (Supra) and Charlie (Supra) prepared a table specifying multiplier to be used for claims in Column (4). In paragraph 42 in the report, it has been held as under :

"We therefore hold that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M17 for 26 to 30 years, M16 for 31 to 35 years, M15 for 36 to 40 years, M14 for 41 to 45 years, and M13 for 46 to 50 years, then reduced by two units for every five years, that is, M11 for 51 to 55 years, M9 for 56 to 60 years, M7 for 61 to 65 years and M5 for 66 to 70 years."

11. In so far as the issue of addition of income and future prospects is concerned, it has been the consistent view that the court can take note of the prospect of future and its reasonable loss of dependency on the actual income of the deceased at the time of death. In the case of Susamma Thomas (Supra) where the salary of the deceased, aged about 39 years at the time of death, was Rs.1032 per month. Having regard to the future prospects, the Hon"ble Apex Court was of the view that higher estimate of monthly income could be made at Rs.2000/- as gross income before deducting the personal living expenses. The ratio of the decision in the case of Susamma Thomas (Supra) was followed by the Hon"ble Apex Court in the case of Sarla Dixit v. Balwant Yadav, (1996) 3 SCC 179. In the said case, the deceased was getting a gross salary of Rs.1543 per month. Having regard to the future prospects of promotions and increase in salary, the Hon"ble Apex Court assumed that by the time he retired, his earning would have nearly doubled.

Hon"ble Apex Court in the case of Sarla Verma (Supra) while accepting the contention that actual revision in pay-scale subsequent to death should not be taken into account for the purpose of determining of income for calculating the compensation however, approved the principle of adding 50% to the actual salary by taking note of future prospects. The Hon"ble Apex Court in paragraph 43 of the report observed as under :

"In this case as noticed above the salary of the deceased at the time of death

was Rs. 4,004/-. By applying the principles enunciated by this Court to the evidence, the High Court concluded that the salary would have at least doubled (Rs.8008/-) by the time of his retirement and consequently, determined the monthly income as an average of Rs.4004/- and Rs.8008/- that is Rs.6006/- per month or Rs.72072/- per annum. We find that the said conclusion is in conformity with the legal principle that about 50% can be added to the actual salary, by taking note of future prospects."

12. The issue with regard to deduction towards personal and living expenses also stands settled by decision rendered in *Sarla Verma* (Supra). Hon"ble Apex Court after considering the decision in the case of *Susamma Thomas* (Supra) and *Trilok Chandra* (Supra) and *Fakeerappa v. Karnatake Cement Pipe Factory*, (2004) 2 SCC 473, in paragraphs 30 to 32 of the said report held as under :

" 30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in *Trilok Chandra*, the general practise is to apply standardized deductions. Having considered several subsequent decisions of this court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependant family members is 4 to 6, and one-fifth (1/5th) where the number of dependant family members exceed six.

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent/s and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependant on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where family of the bachelor is large and dependant on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third."

13. The decision rendered in the case of *Sarla Verma* (Supra) stands affirmed by a three Judge Bench of the Hon"ble Apex Court in the case of *Reshma Kumari*

and others v. Madan Mohan and another, (2013) 9 SCC 65, which was constituted on a reference made by two Judge Bench on the following two questions :

"1. Whether the multiplier specified in the Second Schedule appended to the Motor Vehicles Act, 1988 (for short "the 1988 Act") should be scrupulously applied in all cases ? and

2. Whether for determination of the multiplicand, the 1988 Act provides for any criterion, particularly as regards determination of future prospects ?"

After considering almost various earlier judgments, the conclusions were summed up in paragraphs 43 & 44 of the report as under :

"43. The above propositions mutatis mutandis shall apply to all pending matters where above aspects are under consideration.

44. The reference is answered accordingly. The civil appeals shall now be posted for hearing and disposal before the regular Bench."

14. The last issue for our consideration is the grant of compensation under conventional heads i.e. loss of consortium to spouse, loss of love, care and guidance to children and funeral expenses. Admittedly, in the case in hand, the Tribunal awarded a sum of Rs.1000/- towards funeral expenses, Rs.39,000/- towards expenses in treatment and a sum of Rs. 5436/- for repair of the scooter. Though the Tribunal has mentioned that the claimants produced various cash memos and receipts with regard to the treatment of the deceased at Mathura, Agra and Delhi but without any justification awarded a sum of Rs.30,000/- lump sum in the aforesaid head.

15. Hon"ble Apex Court in the case of Rajesh and others v. Rajbir Singh and others, (2013) 9 SCC 54, held that it is the duty of the tribunal/court to award a just, equitable, fair and reasonable compensation. It further observed that in order to achieve uniformity and consistency on a socioeconomic issue, a precedent can be, and ought to be periodically revisited. In paragraph 17 of the report, the Hon"ble Apex Court observed as under :

"17. ?..... We may therefore, revisit the practise of awarding compensation under conventional heads: loss of consortium to the spouse, loss of love, care and guidance to children and funeral expenses. It may be noted that the sum of Rs.2500 to Rs.10,000 in those heads was fixed several decades ago and having regard to inflation factor, the same needs to be increased. In Sarla Verma case, it was held that compensation for loss of consortium should be in the range of Rs.5000 to Rs.10,000. In legal parlance, "consortium" is the right of the spouse to the company, care, help, comfort, guidance, society, solace, affection and sexual relations with his or her mate. That non-pecuniary head of damages has not been properly understood by our courts. The loss of companionship, love, care and protection, etc., the spouse is entitled to get, has to be compensated appropriately. The concept of non-pecuniary damage for loss of consortium is

one of the major heads of award of compensation in other parts of the world more particularly in the United States of America, Australia, etc. English courts have also recognised the right of a spouse to get compensation even during the period of temporary disablement. By loss of consortium, the courts have made an attempt to compensate the loss of spouse's affection, comfort, solace, companionship, society, assistance, protection, care and sexual relations during the future years. Unlike the compensation awarded in other countries and other jurisdictions, since the legal heirs are otherwise adequately compensated for the pecuniary loss, it would not be proper to award a major amount under this head. Hence, we are of the view that it would only be just and reasonable that the courts award at least rupees one lakh for loss of consortium."

16. With respect to the funeral expenses, the Hon"ble Apex Court observed in paragraph 18 of the said report as under :

"18. We may also take judicial notice of the fact that the Tribunals have been quite frugal with regard to award of compensation under the head "funeral expenses". The "price index", it is a fact has gone up in that regard also. The head "funeral expenses" does not mean the fee paid in the crematorium or fee paid for the use of space in the cemetery. There are many other expenses in connection with funeral and, if the deceased is a follower of any particular religion, there are several religious practices and conventions pursuant to death in a family. All those are quite expensive. Therefore, we are of the view that it will be just, fair and equitable, under the head of "funeral expenses", in the absence of evidence to the contrary for higher expenses, to award at least an amount of Rs.25,000."

17. In view of aforesaid judicial pronouncements setting out the norms for determining compensation, the Tribunal has not added any amount towards future prospects and for no rhyme and reason, a sum of Rs.1420/- out of total salary of Rs.2420/- has been deducted towards personal expenses. The Tribunal has again committed a manifest illegality in awarding a meagre sum of Rs.20000/- towards loss of consortium and loss of love and affection to the minor daughter. A sum of Rs.30000/- awarded towards funeral expenses, medical treatment and repairs of scooter is totally unjustified though claims of Rs.39000/- towards medical expenses and Rs.5436/- towards repair of scooter were duly supported by bills and vouchers.

Admittedly, the salary of the deceased was Rs.2420/- per month. After adding 50% of the salary towards future prospects, the amount works out to Rs.3630/-. There were four claimants. However, father cannot be said to be dependent upon the deceased and thus in accordance with the decision of the Hon"ble Apex Court in the case of Sarla Verma (Supra) holding that deduction towards personal and living expenses of the deceased should be 1/3rd where the number of dependent in the family is 2 to 3, after deducting 1/3rd towards personal expenses of the deceased, the amount works to be Rs.2420/- per month, which shall be the multiplicand.

18. Now comes the question of selecting appropriate multiplier. Again in view of the judgment rendered by Hon''ble Apex Court in the case of Sarla Verma (Supra), the multiplier to be applied is to be chosen from the table set out therein in accordance with the age of the deceased. Admittedly, at the time of death, the deceased was aged about 26 years. Thus, as per the table prescribed in the case of Sarla Verma (Supra), multiplier of 17 is to be applied. Applying the multiplicand with the multiplier gives out the loss of dependency to the family, which works out to Rs.3,59,680/-.

In addition to the aforesaid amount, the claimants would also be entitled to non-pecuniary damages under the heads of loss of consortium, loss of care and guidance for minor daughter, funeral expenses, mental pain and sufferings, expenses incurred in medical treatment as well as in repair of the scooter. We find that the Tribunal has awarded a very frugal amount under the non-pecuniary heads.

19. In accordance with law settled by various judicial pronouncements, we are of the considered opinion that the claimant-wife would be entitled to a sum of Rs.1 Lakh towards loss of consortium, Rs. 1 Lakh to the minor daughter for loss of love and affection, Rs.25000/- towards funeral expenses, Rs.40000/- towards medical expenses, Rs.5436/- for repair of scooter and another sum of Rs.50000/- towards mental pain and sufferings on account of untimely death. Thus, the total amount under the non-pecuniary heads works out to be Rs.3,20,436/-.

Thus, the claimants are entitled to receive a total sum of Rs.6,80,116/- towards compensation. Amount already paid to the claimants is liable to be deducted from this amount. The Tribunal awarded 12% simple interest from the date of making of the claim petition till actual payment. The claimants shall be entitled to the said rate of interest, on the amount derived after deducting the payment already made to them, with effect from the date of making application till the payment is made.

In view of above, Appeal No. 686 of 1993 filed by the Insurance Company is dismissed. Whereas the Appeal No. 674 of 1993 filed by the claimants is allowed, and the award stands modified to that extent.

However, in the facts and circumstances, we do not make any order as to costs.