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**(2008) 05 AHC CK 0235**  
**In the Allahabad High Court**  
**Case No : F.A.F.O. No. 1403 of 2008**

New India Assurance Co. Ltd.

APPELLANT

Vs

Babli alias Banty and Others

RESPONDENT

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**Date of Decision :** 08-05-2008

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 163A

**Citation :** (2008) 3 AWC 3199

**Hon'ble Judges :** Shishir Kumar, J; Amitava Lala, J

**Bench :** Division Bench

**Advocate :** Vipin Chandra Dixit, for the Appellant;

**Final Decision :** Allowed

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## Judgement

Amitava Lala J.

1. The awarded amount is Rs. 3,15,500 under the judgment and order dated 23rd February, 2008, passed by the concerned Motor Accident Claims Tribunal, Agra.

2. The learned Counsel appearing for the Appellant-insurance company challenged the quantum by saying that the age of the deceased is 26 years and multiplier of 18 has been used by fixing the income as Rs. 2,100 per month as average on the basis of monthly calculation, although it is in the lower side. He has relied upon a judgment in Managing Director, Tamilnadu State Road Transport Corporation Ltd. v. K. I. Bindu and Ors., 2006 (1) TAC 1: 2006 (1) AWC 19 (SC), to establish that taking into relevant factors, the multiplier of 13 will be used in case of deceased therein aged about 34 years. However, other observation has been made by the Court that the highest multiplier is put for the age group of 21 to 25 years when an ordinary Indian citizen starts independently earning and the lowest should be 60 to 70 years. The appropriate multiplier was held to be 18 in such case of age group of 20 to 25 years. In making a decision the Court relied upon a judgment in U.P. State Road Transport Corporation and

Others Vs. Trilok Chandra and Others, whereunder it has held that due to many defects in taking the structured formula as u/s 163A of the Motor Vehicles Act, 1988, is to be treated as guide not as a ready reckoner.

3. We find from the judgment and order impugned herein that the calculation of monthly salary has been fixed Rs. 2,100 on the basis of the calculation of 30 days. Learned Counsel for the Appellant has contended that nobody can work for 30 days at a stretch. However, the assessment cannot be said to be inapplicable in case of down the earth people who may give employment regularly to earn bread and butter instead of making day off. A minimal difference will be there if the calculation is made by the court below as per 30 days in the place and instead of 21 days. Apart from the above observation such type of rigidity is contrary to the objects and reasons of the beneficial piece of legislation.

4. So far as the question of application of multiplier is concerned the same cannot be held to be bad in view of the circumstances that the said judgment considered the applicability of the multiplier of 13 in the case of the deceased of 34 years being the age group between 30 to 35 years when further held 18 for 21 to 25 years. The Supreme Court in either of the occasion has not taken note of the age group of 25 to 30 years in its application of multiplier of 18. Therefore, coming to conclusion cannot be held to be bad in that way even if the structured formula is considered as a guide for all practical purposes.

5. We have considered the case on the basis of factual position herein with its totality and we do not find any cogent reason to interfere with the judgment and order impugned hereunder. Hence, the same cannot be admitted and as a result thereof, dismissed but without imposing any cost.

6. Incidentally the Appellant New India Assurance Company prayed that the statutory deposit of Rs. 25,000 made before this Court for preferring this appeal shall be remitted back to the concerned Motor Accidents Claims Tribunal as expeditiously as possible in order to adjust the same with the amount of compensation to be paid to the claimant, however, such prayer is allowed.

Shishir Kumar, J.

I agree.