

(1995) 04 BOM CK 0029
In the Bombay High Court
Case No : First Appeal No. 561 of 1991

Smt. Mandabai Sontakke and Another	Vs	APPELLANT
P. Rajendra Prasad and Another		RESPONDENT

Date of Decision : 26-04-1995

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A(1)
Motor Vehicles Act, 1988 — Section 166(1)

Citation : (1996) 2 ACC 351 : (1995) 4 BomCR 421

Hon'ble Judges : H.W. Dhabe, J;B.U. Wahane, J

Bench : Division Bench

Advocate : J.D. Malvi and A.S. Jaiswal, for the Appellant; V.R. Thakur and R.K. Thakur, for the Respondent

Judgement

H.W. Dhabe, J.—This is an appeal by the claimants for modification of the award of the learned Motor Accident Claims Tribunal, Nagpur, (for short "the Claims Tribunal) by claiming that the entire compensation of Rs. 3,00,000/- along with interest @ 18% p.a. from the date of accident till realisation as claimed by the claimants in their Claim Petition before the learned Claims Tribunal u/s 110-A(1) (b) of Motor Vehicles Act, 1939 (under section 166(1)(c) of the Motor Vehicles Act, 1988) should be directed to be paid to them.

2. The facts are that the appellant No. 1 is the widow of one Shri Milind Sontakke who died on 8-5-1989 as a result of an accident with a truck bearing No. AEK 6496 owned by the respondent No. 1 and insured with the respondent No. 2. The appellant No. 2 is the son of the appellant No. 1 and the deceased Milind Sontakke and was hardly aged about 1 year at the time of the accident of his father. On the date of the accident i.e. 8-5-1989 the deceased Milind Sontakke, was at about 5 p.m. in the evening passing through M.I.D.C. area by road on his bicycle so as to go to the office of his Union. Thus, when he was proceeding ahead and was in front of Eros Metals Compound, the aforesaid truck belonging to the respondent No. 1 driven with high speed came from behind and knocked

him down, as a result of which he was thrown away and had received fatal injuries. He was immediately taken to the Hospital. However, within an hour or two, he succumbed to the injuries.

2-A. Since there is no appeal or cross-objection preferred by the respondents, it has to be held that the above accident to deceased Milind had occurred due to rash and negligent driving of the driver of the aforesaid truck belonging to the respondent No. 1. Moreover, there is no serious contest about the above issue in the instant appeal particularly when there is no appearance on behalf of the respondent No. 1 i.e. the owner of the truck and so far as the driver of the truck is concerned he is not made a party to the claim petition. The only issue with which we are concerned in the instant appeal is thus about the quantum of compensation payable to the appellants.

3. The relevant facts having bearing upon the above issue of quantum of compensation are that the deceased Milind was in the employment of Metal Toys India Ltd. It appears that he was an unskilled employee in the aforesaid factory. The appellant No. 1 has led oral evidence by examining herself and two co-workers viz. Dharamdas (P.W. 1) and Arun (P.W. 2) to show inter alia what the emoluments of the deceased Milind were at the time of his death. No documentary evidence is produced in that regard. Dharamdas (P.W. 1) has, however, produced his salary certificate (Exh. 22) which shows that in January 1991 his take-home salary was Rs. 1045.25 ps. It is further proved on the basis of the oral evidence on record of the appellant No. 1 as well as the above witnesses that the deceased Milind was getting honararium of Rs. 300/- as Secretary of Local Branch of Maharashtra General Kamgar Union. It is material to see that the deceased Milind was employed in 1987 and had put in 2 years service before his death on 8-5-1989. The respondents did not lead any evidence in the case.

4. On the basis of the above evidence on record, the learned Claims Tribunal has held that the salary of the deceased Milind at the time of his death was Rs. 700/- per month and that inclusive of honararium of Rs. 300/- per month, his income from all sources was Rs. 1,000/- per month. As regards the age of deceased Milind at the time of the accident, the learned Claims Tribunal has held that his age was about 24 years at the time of the accident which finding is rendered by it on the basis of the College Leaving Certificate (Exh. 27) produced on record by the appellants which shows the date of birth of the deceased Milind as 5-10-1965.

5. As regards the question of loss of dependency, although the appellant No. 1 has stated in her examination-in-chief that the deceased Milind used to hand over a sum of Rs. 775/- per month for house-hold expenses, in her cross-examination she has stated that he used to hand over Rs. 675/- p.m. for house-hold expenses. It was, therefore, urged before the learned Claims Tribunal on behalf of the appellants that the loss of dependency to the appellants should be calculated on the basis of the said amount of Rs. 675/- per month. The learned Claims Tribunal has, however, held that the loss of dependency cannot be

calculated in the said manner because looking to the time and energy spent by the deceased Milind upon union-work, his honararium of Rs. 300/- p.m. cannot be taken into consideration along with his salary in calculating the loss of dependency of his family. Further, taking the family of the deceased Milind as consisting of 2 1/2 units, i.e. the deceased, the appellant No. 1 and their minor son, the learned Claims Tribunal held that the dependency per unit of adult works out to Rs. 270/- and for half unit of minor Rs. 135/-. Therefore, according to him, the loss of dependency to the appellants would work out to Rs. 450/- per month. On rough and ready basis, he had thus calculated the loss of dependency at Rs. 500/- per month.

6. As regards the question of multiplier, the learned Counsel appearing for the appellants before the Claims Tribunal had claimed that since the deceased Milind had died at young age of 24 years and since he would have worked till the age of retirement of 58 years, the multiplier to be applied should be 34. Further, according to him, the loss of dependency has to be quantified at Rs. 600/- per month i.e. Rs. 7,200/- per year. On the above basis, the total loss of dependency for 34 years was calculated by him at Rs. 2,44,800/-.

7. It is pertinent to see that in the claim petition the loss of dependency is claimed at Rs. 2,85,600/- on the basis of the salary of the deceased Milind of Rs. 700/- per month, besides which a sum of Rs. 10,000/- is claimed for loss of consortium, a sum of Rs. 10,000/- as compensation for mental shock, pain and agony suffered by the appellants due to sudden death of the deceased Milind and certain other miscellaneous expenses making the total claim of compensation of Rs. 3,00,000/-.

8. After referring to several judgments on the question of determination of appropriate multiplier, particularly after taking into consideration the factor of uncertainties of life making of lump sum payment etc., the learned Claims Tribunal held that the appropriate multiplier in the instant case is 20. After calculating the loss of annual dependency at Rs. 6,000/- on the basis of the benefit of Rs. 500/- p.m. to the appellants as hereinabove referred to, and multiplying the same by the above multiplier of 20, the learned Claims Tribunal held that the appellants were entitled to compensation of Rs. 1,20,000/-. In addition, the learned Claims Tribunal awarded the following claims to the appellants:

9. The learned Claims Tribunal thus held that compensation of Rs. 1,32,400/- as calculated above would be just and reasonable and should be awarded to the appellants. After deducting an amount of Rs. 26,467/- already paid on account of "No Fault Liability" to the appellants, the learned Claims Tribunal awarded compensation of Rs. 1,05,833/- to the appellants with interest @ 15% P.A. from the date of claim petition till realisation. Since the truck of the respondent No. 1 was insured with the respondent No. 2 Insurance Company, the learned Claims Tribunal held the respondents 1 and 2 jointly and severally liable for satisfying the above award made by it. As regards the question of distribution of the above

compensation awarded by it, it directed that an amount of Rs. 50,000/- should be kept in fixed deposit in the name of the minor appellant No. 2 and another amount of Rs. 50,000/- in the name of the widow i.e. the appellant No. 1. It directed that the balance amount should be paid to the appellant No. 1 by cheque.

10. Feeling aggrieved by the above award of the learned Claims Tribunal, the appellants have preferred the instant appeal claiming that they are entitled to compensation of Rs. 3,00,000/- along with interest @ 18% P.A. from the date of the accident till realisation, as claimed by them in their claim petition, instead of an amount of Rs. 1,32,400/- as awarded by the learned Claims Tribunal.

11. The learned Counsel for the appellants has urged before us that the multiplier of 34 is an appropriate multiplier as the same was determined after taking into consideration the service which the deceased Milind would have rendered till the age of retirement of 58 years. It is, therefore, urged that there was no basis whatsoever for the learned Claims Tribunal to reduce the said multiplier to 20. It is also urged that the income which the deceased earned and would have earned is not properly determined by the learned Claims Tribunal. In this regard, a chart showing minimum wages payable to the unskilled workers in Plastic Industries for a period from 12-4-1984 to 10-2-1993 as per the Minimum Wages notifications dated 12-4-1984 and 10-2-1993 issued under the Minimum Wages Act, 1948 and special allowance payable to them under the said Act from time to time is prepared and is brought to our notice by the learned Counsel for the appellants.

12. What is urged by the learned Counsel for the appellants is that apart from the fact that for 26 days work, the deceased Milind would have been entitled to remuneration of Rs. 858.78/- and not Rs. 700/- p.m. only at the time of his death, no consideration is given for future increments and promotional chances by the learned Claims Tribunal in properly determining his income and the consequent benefit to his family had he not died. In support of the contention regarding appropriate multiplier as well as taking into consideration the factor about future increments and promotional chances, the learned Counsel for the appellants has relied upon the judgment of the Supreme Court in the case of I (1993) ACC 345 (SC) . There are also other judgments upon which the reliance is placed on behalf of the appellants. The learned Counsel for the respondent No. 2 Insurance Company has, however, placed reliance upon the judgment of the learned Single Judge of the Andhra Pradesh High Court reported in Bhagwandas Vs. Mohd. Arif, , where according to him very scientifically the learned Single Judge has considered the question how the multiplier should be determined and how the compensation should be awarded in a motor accident claim. However, it is not necessary for us to go into any of the decisions relied upon by the parties because recently the Supreme Court has, in the case of General Manager, Kerala State Road Transport Corporation, Trivandrum v. Susamma Thomas and others 1994 Mah. L.J. 1049 laid down authoritative guidelines in this regard.

13. After reiterating in para 16 of its judgment in the case of Susamma Thomas cited supra that the multiplier method is logically sound and legally well established, the Supreme Court has observed in the said para that 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 would last, deducted a percentage therefrom towards uncertainties of future life and award the resulting sum as compensation. It held that the above procedure of determining compensation was clearly unscientific. Illustrating its point, it pointed out that, if the deceased was, say 25 years of age at the time of death and his life expectancy was 70 years, by the above method the loss of dependency would be multiplied for 45 years i.e. by virtually adopting a multiplier of 45 and even if one-third or one-fourth was deducted therefrom towards the uncertainties of future life and for immediate lump sum payment, the effective multiplier would be between 30 and 34 which according to it was wholly impermissible. It then held that although in some of the decisions of the High Court and of the Supreme Court the compensation has been arrived at on some such basis, the said decisions cannot be said to have laid down a settled principle and they are merely instances of particular awards in individual cases. In other words, according to the above judgment of the Supreme Court, the ratio of such decisions have to be restricted to the facts therein.

14. As regards the judgments of the High Courts which have justified departure from the multiplier method on the ground that section 110(b) of the Motor Vehicles Act, 1939 envisages payment of just compensation, the Supreme Court in the aforesaid para 16 of its judgment cited supra observed that it must be borne in mind that the multiplier method is an accepted method of determining a "just" compensation which will make for uniformity and certainty of awards. It thus disapproved such decisions of the High Court and held that the multiplier method is the appropriate method, a departure from which can only be justified in rare and extra-ordinary circumstances and very exceptional cases.

15. In considering the question as to what the multiplier method is, the Supreme Court has observed in para 13 of the judgment cited supra that the multiplier method involves the ascertainment of the loss of dependency or the multiplicand having regard to the circumstances of the case and capitalising the multiplicand by an appropriate multiplier. According to it, the choice of the multiplier is determined by the age of the deceased (or that of the claimants whichever is higher) and by 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. It has then observed that 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.

16. As regards the question of selection of multiplicand and the multiplier, the Supreme Court has in para 14 of its judgment cited supra has referred with approval to the considerations relevant to the same which are adverted to by

Lord Diplock J., in his speech in Mallett's case (1970) A.C. 166. What is important to be seen from his speech is that in making the choice of a proper multiplicand, the variations in the income of the deceased in future are to be taken into account. However, according to him, if the chances of variations in the "dependency" are to be reflected in the multiplicand of which the years' purchase is the multiplier, variations in the dependency which are not expected to take place until after ten years have relatively small effect in increasing or diminishing the dependency used for determining the compensation.

17. As to the choice of an appropriate multiplier the Supreme Court has, in the judgment cited supra quoted in para 15 the following passage from para 98 of Halsbury's Law of England in Vol. 34.

"However, the multiplier is a figure considerably less than the number of years taken as the duration of the expectancy. Since the dependants can invest their damages, the lump sum award in respect of future loss must be discounted to reflect their receipt of interest on invested funds, the intention being that the dependants will each year draw interest and some capital (the interest element decreasing and the capital drawings increasing with the passage of years), so that they are compensated each year for their annual loss, and the fund will be exhausted at the age which the Court assesses to be the correct age, having regard to all contingencies. The contingencies of life such as illness, disability and unemployment have to be taken into account. Actuarial evidence is admissible, but the courts do not encourage such evidence. The calculation depends on selecting an assumed rate of interest. In practice about 4 or 5 per cent is selected, and inflation is disregarded. It is assumed that the return on fixed interest bearing securities is so much higher than 4 to 5 per cent that rough and ready allowance for inflation is thereby made. The multiplier may be increased where the plaintiff is a high tax payer. The multiplicand is based on the rate of wages at the date of trial. No interest is allowed on the total figure."

18. In considering them itself the question as to what appropriate multiplier is the Supreme Court has observed in para 17 of its judgment cited supra that the multiplier represents the number of years' purchase on which the loss of dependency is capitalised. Illustrating the same, it observed that taking for instance where annual loss of dependency is Rs. 10,000/-, if a sum of Rs. 1,00,000/- is invested at 10% annual interest, the interest, according to it, will take care of the dependency perpetually. It thus held that the multiplier in such a case works out to 10. However, if the rate of interest is 5% P.A. and not 10%, then the multiplier needed to capitalise the loss of the annual dependency at Rs. 10,000/- would be 20, as the said multiplier i.e. the number of years' purchase of 20 will yield the annual dependency perpetually. The Supreme Court has pointed out that allowance to scale down the multiplier will have to be then made taking into account the uncertainties of the future, the allowances for immediate lump sum payment, the period over which the dependency is to last being shorter and the capital fund also to be spent away over the period the

dependency is to last etc. It has observed that usually in English Courts the operative multiplier rarely exceeds 16 as maximum which would come down accordingly as the age of the deceased person (or that of the dependents, whichever is higher, goes up.

19. As regards the factor about future prospects of advancement in life and career, the Supreme Court has observed in para 19 of its judgment cited supra that the said factor has to be taken into consideration by determining it in terms of money to augment the multiplicand. It has then observed that while the figure of the multiplier is determined by two factors viz. the rate of interest appropriate to a stable economy and the age of the deceased or of the claimant whichever is higher, the ascertainment of the multiplicand is a more difficult exercise because many factors have to be put into the scales to evaluate the contingencies of the future. According to it, all the contingencies of the future need not necessarily be baneful.

20. In the facts of the aforesaid case the Supreme Court found that the deceased whose age was 39 at the time of his death had a stable job and taking a reasonably liberal view of his future prospects, it held that instead of Rs. 1,032/- per month, his monthly income should be estimated at Rs. 2,000/- per month. Deducting 1/3rd of his aforesaid income towards his personal expenses, it determined the benefit to the family at Rs. 1,400/- p.m. It thus calculated the annual loss of dependency at Rs. 17,000/- and capitalised the same by selecting 12 as an appropriate multiplier looking to the age of the deceased at the time of his death.

21. It is in the light of the above authoritative pronouncement of the Supreme Court, that we have to consider the question of multiplier and multiplicand in the facts of the instant case. As regards the question of determination of multiplier, it is clear from the above judgment that it has to be determined upon the age of the deceased at the time of his death (or that of the claimant 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.

22. Keeping in mind the above principles and/or criteria about determination of the "multiplicand" and the "multiplier" in following the multiplier method in determination of compensation in case of motor accident claims, we proceed to consider the relevant material on record in the instant case to determine what the appropriate multiplier i.e. the annual dependency is and what the appropriate multiplier is in determining the compensation which can be awarded to the appellants for the death of the husband of the appellant No. 1. As pointed out hereinabove, the learned Claims Tribunal has altogether excluded the income of the deceased from the honararium of Rs. 300/- p.m. received by him alongwith his salary in calculating the loss of dependency of his family. It has then taken

the family of the deceased Milind as consisting of 21/2 units and from the income of salary of Rs. 700/- per month, he has held that the loss of dependency to the appellants would work out to Rs. 450/- per month. However, he has actually on rough and ready basis calculated the loss of dependency at Rs. 500/- per month i.e. Rs. 6,000/- annually.

23. It may be seen that the loss of dependency is measured by the loss of the amount of pecuniary benefit that the dependants could reasonably expect to have received from the deceased in the future. In the ordinary case of the death of a wage-earner that figure is arrived at by deducting from the wages the estimated amount of his own personal and living expenses. It is necessary to see that in the absence of any evidence in that regard the amount of personal and living expenses of the deceased is conventionally determined by apportioning equal shares between him and his dependants. Thus where there are three family members, 1/3rd of his wages is estimated as is own personal and living expenses. However, in the instant case the learned Claims Tribunal has first excluded the honararium of Rs. 300/- per month, which the deceased Milind was getting from his Union, from his income on the ground that he was spending his time and energy in the Union-work. It has thereafter excluded his share in his salary by taking his family as consisting of 21/2 units. In our view, the above approach of the learned Claims Tribunal is clearly erroneous. In considering the question of loss of benefit to the family or the dependants what has to be excluded is the personal and living expenses of the deceased. As such there is no reason to exclude the amount of Rs. 300/- per month which the deceased Milind was getting as honararium from his Union. If he was spending his time and energy in the Union-work, what needed to be excluded is the expenditure which he incurred i.e. his personal and living expenses for doing the Union-work. In fact the learned Claims Tribunal ought to have taken the total income of the deceased Milind from salary and the said honararium at Rs. 1,000/- and then deducted from the said income the personal and living expenses of the deceased Milind in discharging his own duties in the factory as well as in doing the Union-work and calculated rest of his income as loss of benefit to his family.

24. It is material to see in this regard the evidence of the appellant No. 1 who has stated in her cross-examination that she had to meet the family expenses within the sum of Rs. 675/- per month which would mean that the deceased Milind was spending about Rs. 300/- per month upon himself. In other words the amount of Rs. 300/- per month was his personal and living expenses.

25. It is then pertinent to see that in determining an appropriate multiplicand, the learned Claims Tribunal has to take into consideration the factor of future prospects of advancement in life and career. In this regard the evidence of appellant No. 1 shows that according to her, her husband was soon to get his next promotion and that he was in a position to spare Rs. 300/- more. The evidence of co-workers would show that had deceased Milind been alive, he would have also received a salary of Rs. 1161/- per month in 1991 when they

received the said salary. The evidence of the appellant No. 1 and the above co-workers also shows that the deceased Milind had good health and was not addicted to any vices and would have thus lived a full span of life except for accidental and unforeseen circumstances.

26. The learned Counsel for the appellants has also filed a chart before us in relation to the minimum wages for unskilled workers in plastic industries in M.I.D.C. area Nagpur, calculated as per the minimum wages notifications dated 12-4-1984 and 10-2-1993 issued by the State Government, under the Minimum Wages Act, 1948. The said chart shows the minimum rates of wages and special allowances payable to unskilled workers in plastic industries in M.I.D.C. Nagpur for various periods from 1-1-1989 to 30-6-1993. The total of the emoluments consisting of the minimum basic wage and the special allowance which an unskilled worker can get for 26 working days ranges from 858.78 ps. on 1-1-1989 to Rs. 2497.30 ps. on 30-6-1993. Although it is true that the said chart was not produced before the Claims Tribunal, judicial notice can be taken of the said chart because it is prepared on the basis of the notifications issued by the State Government under the Minimum Wages Act, 1948. The above chart shows the variation in earnings during the period of 5 years. As observed by Lord Diplock, J., in his speech in *Mallett's case*, cited *supra*, variation in the dependency which occurred within a period of 10 years have greater effect as compared to the variation in the dependency which takes place after 10 years.

27. Thus taking into consideration the above material in regard to the future prospects of advancement in life and career of the deceased Milind and also making allowance for the factors such as uncertainties of future life and immediate lump sum payment, the monthly income of the deceased Milind for the purposes of computation of loss of dependency can fairly be estimated at Rs. 1,500/- per month. Deducting 1/3rd from the said income, towards his personal expenses, the loss of benefit to his family has to be estimated at Rs. 1,000/- per month i.e. Rs. 12,000/- annually which would represent the loss of dependency or the multiplicand in the instant case.

28. The next question to be then considered is what the appropriate multiplier is in the facts and circumstances of the instant case. The appropriate multiplier has to be determined with reference to the age of the deceased Milind. As pointed out hereinabove, the deceased Milind was about 24 years of age at the time of his death. Although the learned Counsel for the appellants has urged before us that the appropriate multiplier should be 34 since the deceased Milind would have continued to serve upto the age of retirement of 58 years, as held in the judgment of the Supreme Court cited *supra*, it is not a proper way of determining the multiplier. We have already referred in para 21 of this judgment to the factors which should be taken into consideration in determining an appropriate scientific multiplier. It is further necessary to see that in the judgment cited *supra* when the age of the deceased in that case was 39 years, the Supreme Court has chosen the appropriate multiplier of 12 for capitalising the annual loss

of dependency in that case. It is also necessary to see that in para 17 of the judgment cited supra, it is pointed out that in English Courts the operative multiplier rarely exceeds 16 as maximum. In the instant case the age of the deceased is less than the age of the deceased in the judgment of the Supreme Court cited supra and, therefore, naturally the multiplier in this case would be higher than 12.

29. It is interesting to see that by his scientific and mathematical calculation, the learned Single Judge of the Andhra Pradesh High Court in the case of Bhagwandas Vs. Mohd. Arif, , has given the table of multiplier in para 52 of his judgment in which for the age of 25 years at the time of death, the multiplier calculated is 17.95. Further in the new Motor Vehicles Act, 1988 by the amendment effected by introduction of section 163-A in the said Act by the Amending Act No. 54 of 1994 w.e.f. 14-11-1994, the second schedule is introduced in the said Act giving schedule for compensation for third party fatal accidents/injury cases claims in which for the age between 20 to 25 years, the multiplier given is 17 and the computation for annual dependency of Rs. 18,000/- after deducting 1/3rd for personal expenses of the deceased works out to Rs. 2,16,000/-. It is true that the said schedule/provision is not applicable in the instant case because the accident had taken place prior to the coming into force of the New Motor Vehicles Act. However, we can have some guidance from the said schedule in determining the appropriate multiplier and the compensation in the instant case. Thus considered the appropriate multiplier in the instant case can be taken as 17 and if the annual loss of dependency of Rs. 12,000/- is multiplied by the said multiplier of 17, the compensation which would work out would be Rs. 2,04,000/-. Adding to the same conventional figure of loss of consortium at Rs. 10,000/-, Rs. 2,000/- for the expenses incurred in performing last rites of deceased Milind, and compensation of Rs. 300/- for damage to the bicycle of the deceased, the total compensation payable to the deceased Milind would be Rs. 2,16,300/- which also accords with the compensation statutorily now determined under the New Act. From the said compensation the amount of Rs. 26,467/- paid to the appellants towards "No Fault Liability" has to be excluded. The balance of compensation which comes to Rs. 1,89,833/- (Rounded off Rs. 1,90,000/-) is thus payable to the appellants in the instant appeal. They are also entitled to interest upon the same at the rate of 15% p.a. from the date of claim petition i.e. 13-6-1989 till realisation. However, the entire amount of compensation with interest is actually payable or is to be invested particularly in the case of a minor illiterate, semi-literate or a widow in accordance with the guidelines laid down by the Supreme Court in the case of Susamma Thomas cited supra according to which the directions are issued in this appeal also.

30. In the result the instant appeal is partly allowed. The impugned award of the learned Claims Tribunal is modified as follows :---

i) The compensation payable to the appellants by the respondents 1 and 2 jointly and severally is determined at Rs. 1,90,000/- with interest at the rate of 15%

p.a. from the date of the claim petition i.e. 13-6-1989 till realisation and proportionate costs.

ii) The whole of the above amount shall be deposited by the respondents 1 and 2 with the Claims Tribunal within two months from the date of this order.

iii) The Claims Tribunal is directed to keep 50% of the said amount in fixed deposit in any of the Nationalised Bank in the name of the appellant No. 2 with the appellant No. 1 as his guardian on long term basis.

iv) Out of the balance amount, the learned Claims Tribunal shall pay an amount of Rs. 20,000/- to the appellant No. 1 by a cheque and deposit the rest of the amount in her name in fixed deposit in any of the Nationalised Bank on long term basis.

v) The interest accrued upon the above fixed deposits shall be credited directly to the account of the appellant No. 1, who is directed to open an account in the Nationalised Bank in which the above fixed deposits on long term basis are made by the learned Claims Tribunal. This arrangement can continue till the appellant No. 2 is minor. However, after he becomes major, he shall open a separate account in his name in the said Nationalised Bank and thereafter the interest on his fixed deposit shall be separately credited to his own account in the Bank and only the interest accruing on her own deposit shall be credited in the account of the appellant No. 1.

vi) The above long term deposits should be made on the condition that the Nationalised Bank in which the said long term fixed deposits are made will not permit any loan or advance on the said fixed deposits.

vii) The appellants shall be at liberty to apply to the Claims Tribunal for withdrawal of any lump sum amount in case of any emergency. The Claims Tribunal, after verification of the need pleaded by the appellant, can allow the withdrawal from the fixed deposits to the extent of need as is determined by it. For meeting such contingency, it is open to the Claims Tribunal to invest the above amount payable to the appellants in more than one fixed deposit so that, if need be, one such F.D.R. can be liquidated.