

(1978) 09 KAR CK 0001

In the Karnataka High Court

Case No : Misc. First Appeal No. 281 of 1977

The General Manager, Karnataka State Road Transport Corporation, Bangalore

APPELLANT

Vs

Peerappa Parasappa Sangolli and Others

RESPONDENT

Date of Decision : 04-09-1978

Acts Referred:

Fatal Accidents Act, 1855 — Section 1 A
Motor Vehicles Act, 1939 — Section 110, 110 F

Citation : (1979) ACJ 229 : AIR 1979 Kar 154 : (1979) ILR (Kar) 353 : (1979) 1 KarLJ 188

Hon'ble Judges : P.P. Bopanna, J;K. Bhimiah, J

Bench : Division Bench

Judgement

Bopanna, J.—This appeal arises out of the judgment and award of the Motor Accidents Claims Tribunal, Dharwar, in Misc. (M.V. C) No. 22 of 1975 awarding a sum of Rs. 6,000 as compensation to the claimants therein. The appellant in this appeal is the General Manager, Karnataka State Road Transport Corporation. There is also cross-objections by the claimants, who are respondents 1 and 2 herein, claiming enhanced compensation.

2. The facts of the case are not in dispute and may be briefly stated as follows: On 8-10-1974 at about 4.45 P. M. The vehicle bearing registration No. MYF 4176 belonging to the appellant and driven by the appellant's driver, i.e., the third respondent herein, caused the death of the deceased Laxman Parasappa Sangolli, as a result of the rash and negligent driving of the driver. Respondents 1 and 2, who are the brother and the sister of the deceased, claimed damages amounting to Rs. 25,500 from the appellant and respondent No. 3. The appellant resisted the claim contending, inter alia, that the accident was not due to the rash and negligent act of his driver and the deceased only was responsible for his death on account of his contributory negligence.

3. The Claims Tribunal disbelieved the case put up by the appellant and found

the appellant's driver guilty of rash and negligent act on the basis of the evidence of an eye-witness, P.W. 4.

4. The learned counsel for the appellant has not seriously challenged the finding of the Claims Tribunal on this point but his grievance is that a sum of Rs. 6,000 awarded by the Claims Tribunal for the loss of the estate of the deceased is on the excessive side regard being had to the facts that the deceased was earning Rs. 6 per day.

5. We will consider this case at a later stage after we deal with the cross-objections of respondents 1 and 2 since the cross-objections raise an important question of law for our determination.

6. The Claims Tribunal, though it found the driver guilty of actionable negligence, did not award any general damages to the claimants on the ground that they did not fall within the category of the dependent under S. 1-A of the Fatal Accidents Act, 1855, (hereinafter referred to as the "1855 Act"). Hence it confined its award to the grant of Rs. 6, 000/- for loss to the estate of the deceased and awarded the said sum to the claimants, who are brother and sister as stated earlier, in the absence of nearer relations. It held that succession opens by personal law and in the absence of nearer relatives, the brother and the sister become the legal heirs.

7. Mr. Hiremath, learned counsel for the cross-objectors, maintained that the finding of the Claims Tribunal that the brother and the sister of the deceased are not entitled to claim compensation for loss of dependency is untenable regard being had to the language of Section 110-B of the Motor Vehicles Act, 1939 (hereinafter referred to as the "1939 Act"). In support of his case, he relied on the latest decision of the Gujarat High Court in Megjibhai Khimji Vira and Another Vs. Chaturbhai Taljabhai and Others, In the said case, the claimants were the brothers of the deceased. During the pendency of the claim application claimant No. 1, i.e., the first brother, passed away without leaving any issues. The other brother pre-deceased the first brother leaving behind two sons. These two sons of the second brother were the legal representatives of the first brother also. They continued the proceedings for claiming compensation for the loss caused by the death of their uncle. The contention raised before the Court on behalf of the claimants was that a Claims Tribunal inquiring into claims for compensation in respect of fatal accidents arising out of the use of a motor vehicle must apply the law contained in Sections 110 to 110-F of the 1939 Act since the said provisions provide a complete code for determining compensation for actionable negligence arising out of the use of motor vehicles as also for the determination of persons who are entitled to compensation and such determination is not governed by the 1955 Act. The opposite view put forth before the Court was that Sections 110 to 110-F of the 1939 Act are of procedural nature and the Claims Tribunal has to inquire into a claim for compensation in respect of a fatal accident arising out of the use of a motor vehicle under the law contained in Sections 1-A and 2 of the 1855 Act. According to this view, the nephews of the deceased were not

dependents u/s 1-A of the 1855 Act as that section recognises only the wife, husband, parent and child as dependents and, therefore, it was contended that the nephews of the deceased could not maintain an action for damages. A large number of cases for and against were cited before that Court in support of the respective contentions and the High Court itself felt that there was a sharp difference of opinion on the rival contentions canvassed before it.

8. Though we did not have the benefit of detailed arguments on this controversial issue, we were taken through some of the decisions of other High Courts which could be classified into three categories. The first group of cases takes the view that every claim application for compensation arising out of a fatal accident would be governed by the 1855 Act and no dependent other than the persons mentioned in Section 1-A of the said Act can maintain an action for damages against the tortfeasor. The second group of cases takes a *via media* view. In that the provisions contained in Sections 110 to 110-F of the 1939 Act are adjectival or procedural in nature and they draw a distinction between a claim u/s 1-A of the 1855 Act and a claim u/s 2 of the said Act which could be brought by the representatives of the deceased who are entitled to succeed to the estate of the deceased. The third group of cases takes the view that a claim for compensation arising out of the use of a motor vehicle could be determined only under Sections 110 to 110-F of the 1939 Act and the 1855 Act has no relevance to such determination and the principles laid down under that Act need not fetter the discretion of the Claims Tribunal in awarding just compensation to persons who are entitled to it.

9. The evolution of law relating to compensation in fatal accidents involving motor vehicles leading up to the enactment of Sections 110 to 110-F of the 1939 Act may be briefly stated for a proper determination of the issue in this case. The 1855 Act came on the Statute Book to mitigate the rigour of the legal maxim "*actio personalis mortui cum persona*" in the law of torts. The common law in England which rested on the fundamental principle that whenever a man has a right the law should give a remedy, did not provide any remedy to the dependents or the heirs of the deceased person whose death was caused by a tortious act of another person because the cause of action to sue died with the person. On the other hand, a person who was slightly or seriously injured could maintain an action in damages against the tortfeasor. Hence the legislature stepped in to remove this anomaly and enacted the 1855 Act which is also known as Lord Campbell's Act in England. The 1855 Act in India rendered the maxim cited above obsolete and ineffective and under that Act the persons mentioned in Section 1-A of the Act, viz., wife husband, parent and child could maintain an action against the tortfeasor and recover damages for the tortious action notwithstanding the death of the person injured. Section 2 of the Act provides that in any such action for damages the executor, administrator or representative of the deceased may insert a claim for and recover any pecuniary loss to the estate of the deceased occasioned by the tortious act complained of and which sum when recovered shall be deemed part of the assets of the estate

of the deceased. The preamble to the 1855 Act brings out plainly the purpose of this enactment and till Sections 110 to 110-F of the 1939 Act were enacted by the Parliament by an amendment to the Act, all claims under the fatal accidents in India involving motor vehicles or otherwise were governed by the Fatal Accidents Act. In this connection reference may be made to the decision of the Supreme Court in Gobald Motor Service Ltd. and Another Vs. R.M.K. Veluswami and Others, The Supreme Court in that case dealt with the scope of Sections 1-A and 2 of the 1855 Act in a suit arising out of a claim for actionable negligence causing the death of certain persons in a motor vehicle accident and the Supreme Court laid down the law explaining the scope of Sections 1-A and 2 of the 1855 Act. Sections 110 to 110-F were not in the Statute Book when the suits for damages were filed in that case. The suit filed in the year 1948 reached its finality in the year 1961. Realising the difficulty of the dependents of persons killed in motor vehicle accidents in obtaining compensation within going through the tortuous course of a regular civil suit, an appeal or second appeal as the case may, be the Parliament by the Act 100 of 1956 introduced Sections 110 to 110-F in the 1939 Act for providing a speedy remedy for the dependents of the deceased.

10. The scheme of Chapter VIII of the 1939 Act will also throw some light on the question whether the provisions of Sections 110 to 110-F are only procedural in nature or whether they confer certain substantive rights on the persons who seek the remedies under those provisions. Sections 93 to 106 relate to insurance of motor vehicles against third party risks. These provisions are intended to ensure that the persons who claim compensation in respect of accidents involving motor vehicles do not obtain a mere paper decree but realise the fruits of the decree substantially by virtue of the provisions which make it obligatory for the owner of the motor vehicle to take a policy of insurance complying with the requirements of Chapter VIII. It also provides coverage for the owners of the vehicles who may innocently or negligently be involved in the motor accident. Section 95 specifies the requirements of the policy and the limits of liability of the insurance company. Section 96(1) imposes a duty on insurance companies to satisfy judgments against persons insured in respect of third party risks. Section. 97 protects the rights of third parties against insurers on the insolvency of the insured. Section 110-C (i) confers powers on a Claims Tribunal to prevent the abuse of the insurance policy taken by the owners by permitting the insurance companies to take over the defence of the owner when there is collusion between the claimant and the owner and contest the claim on all or any of the grounds that are available to the owner against whom the claim has been made. This is the protection given to the insurer on account of the limited defence that is available to him u/s 96(2) of the Act. u/s 110-D there is a right of appeal to the High Court against an award of the Claims Tribunal. These provisions do show that the provisions contained in Chapter VIII of the 1939 Act could not be termed as only procedural. Reference may be made in this connection to Garikapatti Veeraya Vs. N. Subbiah Choudhury, The Supreme Court while dealing with the

right of appeal and the repeal thereof by subsequent legislation has held that the right of appeal is not a mere right of procedure but it is a substantive right and once this right is vested in a person it can be taken out only by a subsequent enactment. Chap. VIII which contains the provisions, Ss. 110 to 110-F, enables the claimants to seek compensation in respect of accidents involving motor vehicles either against the owner or his driver and also against the insurance company which has covered the risk of the owner in terms of the mandatory requirements of S. 94 and empowers the Tribunal to determine the compensation which appears to it to be just and thereafter apportion the compensation to person or persons who are entitled to receive the same and further apportion the liability of the insurance company or the owner or the driver of the vehicle involved or by any of them as the case may be and the party aggrieved by the award has also a right of appeal u/s 110-D. These provisions leave no doubt in our minds that Chapter VIII which contains Sections 110 to 110-F do confer substantive rights on the parties who seek the remedy under the said sections.

11. The right to claims damages and pecuniary loss to the estate of the deceased is found in the Law of Torts. The 1855 Act confers that right on certain persons mentioned in Sections 1-A and 2 of the said Act. The 1939 Act singles out fatal accidents involving motor vehicles and gives the legal representatives of the deceased a right to bring an action for compensation u/s 110-A (1)(b). Section 110-B confers on the Tribunal a right to determine just compensation and specify the person or persons to whom, compensation shall be paid.

12. The key sections for the purpose of this case are Sections 110-A and 110-B of the 1939 Act. Section 110-A determines the persons who can apply for compensation. Section 110-B empowers the Claims Tribunal to hold an inquiry into the claim and make an award determining the amount of compensation which appears to it to be just and specify the person or persons to whom compensation shall be paid. Under this section the Claims Tribunal also has the powers for apportionment of compensation payable by the insurer, the owner or the driver of the vehicle involved in the accident. "In civil law, the rules as to the measure of damages pertain to the substantive law, no less than those declaring what damage is actionable. To define procedure as concerned not with rights, but with remedies, is to confound the remedy with the process by which it is made available. (See Salmond on Jurisprudence 12th Edition P. 461). The learned author has further observed:

"Although the distinction between substantive law and procedure is sharply drawn in theory, there are many rules of procedure which, in their practical operation, are wholly or substantially equivalent to rules of substantive law. In such cases the difference between these two branches of the law is one of form rather than of substance. A rule belonging to one department may by a change of form pass over into the other without materially affecting the practical issue. In legal history such transactions are frequent, and in legal theory they are not without interest and importance."

13. It may be noted that Section 110-A of the 1939 Act enables all or any of the legal representatives of the deceased to apply for compensation arising out of an accident of the nature specified in sub-section (i) of Section 110. In the 1855 Act the second paragraph of Section 1-A provides for compensation for the benefit of the wife, husband, parent and child of the deceased person. If Section 1-A is construed as a substantive provision, Section 110-A which enables all the legal representatives to maintain an action for compensation must also be treated as a substantive provision. The 1939 Act is a special Act providing for adjudication of claims in respect of accidents involving motor vehicles and while dealing with a special Act we should take notice of the fact that the special Act or rule controls the general act or the rule in the same field. Even in respect of damages that may be awarded under the 1855 and 1939 Acts, the yard-stick for the quantification is not the same. Under the 1855 Act the Court is empowered to give such damages as it may think proportioned to the loss resulting from such death to the parties for whose benefit the action for damages has been brought and it further empowers the Court to apportion the damages amongst the persons who are entitled to receive it under paragraph 2 of Section 1-A. Whereas under 110-B of the 1939 Act the Tribunal is empowered to make and award determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid. Here also the material difference in the language of Section 1-A of the 1855 Act and 110-B of the 1939 Act may be noticed. The words "just compensation" and "person or persons" in Section 110-B are not the same thing as damages proportioned to the loss resulting from the death of the deceased to the parties who could only mean wife, husband, parent and child of the deceased person under the 1855 Act. The language of S. 110-B in the matter of determination compensation and recipients of compensation is wider than the language of S. 1-A of the Fatal Accidents Act. Due regard being had to these wide powers under S. 110-B of the 1939 Act, the said provision cannot be construed as a procedural provision but as a substantive provision and applying the settled rule of interpretation S. 110-B should override the general provisions contained in paragraph 3 of S. 1-A of the 1855 Act.

14. The law in India which governs cases for compensation for tortuous acts of tortfeasor is the law of torts. This branch of common law is literally borrowed from the common law of England. The Fatal Accidents Act was enacted in the year 1855 with the limited object of providing for compensation to families for loss occasioned by the death of a person on account of an actionable wrong. Such actionable wrong may be committed by a person while driving a motor vehicle or riding a horse or a bicycle. In the year 1855, the motor vehicle was neither invented nor was it in existence in India and though the 1855 Act has been modified upto 1967, there is no reference to motor vehicles in the Act. In the circumstances, the view of some High Courts that notwithstanding the provisions of Sections 110 to 110-F of the Act, the claim for compensation involving accidents caused by motor vehicles should be governed by the 1855

Act does not appear to be sound. The determination of compensation under S. 110-B of the Act is covered by the law of torts for that is the common law of the land and in the absence of any guidelines for determining compensation as provided for under S. 23 of the Land Acquisition Act or Ss. 73 and 74 of the Contract Act or under relevant provisions of the Industrial Disputes Act, the Claims Tribunal necessarily has to follow the common law of torts for determining compensation. If that point is conceded, then the persons who are entitled to compensation cannot be specified with reference to the provisions of the 1855 Act. Therefore we are of the view that the "persons" in S. 110-B of the Act could be persons who are not beneficiaries under S. 1-A of the Fatal Accidents Act but persons who come within the meaning of the words "legal representatives" under the 1939 Act and there is no dispute that the brothers and the sisters of the deceased person in this case are "legal representatives". There is also no dispute that the deceased was killed in an accident involving a motor vehicle. Therefore, the brothers and the sisters of the deceased are entitled to compensation as legal representatives, provided they prove their dependency on the deceased.

The net result of this discussion is that Ss. 110-A to 110-F of the 1939 Act are not merely adjectival or procedural but also substantive in nature.

15. Now the cases which have taken the contrary view may be briefly referred to. In *Dewan Hari Chand and Others Vs. Municipal Corporation of Delhi and Another*, a single Judge of the Delhi High Court has taken the view that the brothers of the deceased are not entitled to claim compensation u/s 110-A of the 1939 Act. The view taken by the learned Judge is that question has to be determined by a reference to the Fatal Accidents Act 1855. The reasoning of the learned Judge is that Section 110-A only specifies the persons who are competent to file an application for compensation but it does not mean that such persons in their own right are entitled to receive compensation. The Court observed "it has been generally recognised that only such persons would be entitled to receive compensation under the Act as are entitled to receive compensation under the 1855 Act and such persons are specified in Section 1-A of the 1855 Act, i.e., the wife, husband, parent and child of the deceased." The Delhi High Court referred the ruling of this Court in 1971 Acc CJ 404 : AIR 1972 Mys 63 (*M. Basavalingiah v. T. P. Papanna*). We do not find anything in the Bench decision of this Court to support the view taken by the Delhi High Court. What was considered by this Court was whether the father of the deceased is one of the persons who is entitled to the benefit of compensation and whether he can bring a claim petition as a representative of the person deceased. This Court reversing the decision of the Claims Tribunal held that the father is a legal representative of the deceased and he can make a claim u/s 110-F of the 1939 Act without joining the mother of the deceased though she is a heir of the deceased under the Hindu Succession Act.

The other case referred to by the Delhi High Court is 1970 Acc CJ 280 (*Madh Pra*)

(Suman v. General Manager, M. P. S. R. T.). That case also did not decide the point in issue before us. What was decided there was that the widow of the deceased could file an application for compensation without joining her children in the petition.

The third case referred to by the Delhi High Court is AIR 1916 Lah 133 Chain Sukh v. Gopi Ram. This case does not require any examination because this dealt with a suit filed under the Fatal Accidents Act as admittedly the 1939 Act was not in the Statute Book at that time.

The fourth case relied upon by the Delhi High Court is P.B. Kader and Others Vs. Thatchamma and Others, The Kerala High Court while holding that the brothers and sisters are not entitled to rank as dependents u/s 1-A of the 1855 Act did not consider the change in the law effected by Sections 110-A to 110-F of the 1939 Act, but they did observe that the 1855 Act is a trifle archaic in form and somewhat obsolescent in content, but courts are called upon to enforce the statute as it is". They referred to progressive amendments to the English statute which have not been copied in our country and pointed out that in England u/s 2 of the Fatal Accidents Act, 1959 brother, sister, uncle and aunt of the deceased and the issue of such relatives have been inducted into the area of statutory dependents. There is no consideration of the effect of Sections 110-A to 110-F of the Motor Vehicles Act.

The last case referred to by the Delhi High Court is 1971 Acc CJ 49 (Orissa Co-op. Insce. Society Ltd. V. B. Sahu). This is also a judgment of a Single Judge which held that Claims Tribunal is just a substitute of a civil court and the substantive law is still the law of torts. The point for consideration there was whether the karta of the joint family could maintain an application for compensation without making the other heirs of the deceased parties to the petition. That case also does not deal with the effect of the provisions of Sections 110-A and 110-B of the Act which enable the legal representatives to maintain an application and enables the court to award compensation to such persons as it may think fit.

16. This Court in 1969 Acc CJ 439 : AIR 1970 Mys 67 (M. Ayyappan v. Moktan Singh) while defining the scope of the expression "legal representatives" in Section 110-F of the Act held that the meaning and the scope cannot be restricted to the definition given in Section 2(ii) of the C.P.C. And in that view of the matter it held that Rule 342(2) of the Mysore Motor Vehicle Rules 1963 which restricts the meaning of the term legal representative is beyond the rule making powers of the State. Whether the brothers and sisters are entitled to damages for loss of dependency was not considered in that case.

17. The Madras High Court in Mohammed Habibullah and Another Vs. Seethammal, had occasion to consider the point before us under more or less similar circumstances. In that case a bachelor died in a motor accident leaving behind a married sister. She filed a claim for compensation u/s 110-A of the 1939

Act. The plea she had no right to claim compensation because she was not a representative of the deceased within the meaning of the term as defined in the 1855 Act was negated by a Bench of the Madras High Court and they expressed the view that Sections 110 to 110-F of the Act are part of a self-contained code in the adjudication of claims for compensation on behalf of the victims of a motor accident and such adjudication must be made without reference whatever to the provisions of the 1855 Act.

18. The Andhra High Court in 1975 Acc CJ 344 (Vanguard Insce. Co. v. Chellu Hanumantha Rao) has taken the view that the brother of the deceased is entitled to claim compensation because the expression "legal representatives" is not defined in the 1939 Act, and therefore, one has to rely on the expression as defined in the Civil Procedure Code.

19. It may be noticed that the earlier decision of the Madras High Court in Mohammed Habibullah and Another Vs. Seethammal, was dissented by another Bench of the Madras High Court in 1974 Acc CJ 182 Perumal v. Elluswamy Reddiar). Justice Kailasam (as he then was) and Justice Ramaswamy, who constituted the Bench, took the view that the brothers and the sisters of the deceased are not entitled to compensation for loss of benefit as they are not "dependents" u/s 1-A of the 1855 Act but they would be entitled to claim compensation towards loss of estate of the deceased as persons who represented his estate. They opined that neither of the contentions, viz., (i) that the sisters and brothers are not "dependents" u/s 1-A of the 1855 Act and hence they cannot claim compensation under the 1939 Act and (ii) that the provisions of the 1855 Act have no application to a claim before the Claims Tribunal and that the provisions of the 1939 Act give a right to all legal representatives of the deceased to maintain a claim for compensation, is correct. This view of the Madras High Court was on the premise that Sections 110 to 110-F of the Act do not purport to change the substantive law under which persons can claim compensation for either death or injury caused by tortuous acts. They proceeded on the assumption that Sections 110 to 110-F of the Act do not say that in every case of accident, whether as a result of a tortuous act or not, the injured or the legal representatives of the deceased are entitled to compensation. It is only under the general law of torts that the substantive right to claim compensation arises. Referring to Section 110-B of the Act which provides for determination of the amount of compensation which appears to be just, they interpreted the same as to mean that the Tribunal should look to the law of torts in determining such compensation. They also referred to the amended Section 95 of the Act which provides for covering of passenger risks of public service vehicles irrespective of the culpability of the owner or the driver of such vehicle in any accident in which it may be involved provided there was no contributory negligence on the part of the victim. However, they did not answer the effect of the amendment because of two reasons: firstly, the amendment came into effect in the year 1969 before the cause of action arose to the claimants in that case and secondly, the amendment provides for absolute liability, if any, in respect of passengers in a

public service vehicle and in the case before them they were not concerned with any passenger who was injured or dead in the accident. Though the learned Judges were right on the first point in not considering the effect of the amendment to Section 95 of the Act by Act 56 of 1969, we are of the view that the second reasoning that they were not concerned with any passenger who was injured or dead in the accident in the case before them, does not appear to be sound. What was urged before the learned Judges was that regard being had to the Amendment Act 56 of 1969, the persons injured or the legal representatives of the persons who are killed in accidents involving motor vehicles are conferred with certain rights and those rights make the provisions of Sections 110 to 110-F substantive in character and not merely procedural. In the absence of any consideration of the effect of Chapter VIII of the Act, the view of the learned Judges that the provisions of the Act are only procedural does not appear to be correct.

20. After referring to the 1855 Act, the learned Judges of the Madras High Court came to the conclusion that the legal representatives, I. E., the brothers and the sisters of the deceased in that case were entitled to claim compensation for loss of estate of the deceased. On this proposition, there cannot be any dispute and this Court has also consistently taken the same view, but the learned Judges of the Madras High Court did not make a comparative analysis of the provisions of Sections 110-A and 110-B of the Act with the provisions of the 1855 Act before coming to the conclusion that the provisions of the Amendment Act are wholly procedural in nature.

21. Our attention was invited to two decisions of the Supreme Court holding that the provisions of section 110 and other related sections are procedural in nature. The observations of the Supreme Court in those cases were made in the context of questions involving the law of limitation and jurisdiction civil courts and the Supreme Court had no occasion to consider the right of legal representatives to claim compensation for loss of dependency.

22. In the view that we have taken on the legal position relating to grant of compensation on the head. Loss to the dependency to the brother and sister who are legal representatives of the deceased, the Tribunal is in error in disallowing compensation on that head. We do not agree with the finding. Hence, it is set aside. We hold that the brother and sister are entitled to the award of compensation for loss to the dependency.

23. The next question for determination is whether they have proved their dependency and if so what is the quantum of compensation which they are entitled to get.

24. The evidence discloses that the deceased was earning Rs. 6/- every day. Deducting 50 per cent for his personal expenses he was saving Rs. 3/- per day. He was a member of the joint family. His brother and sister were depending on him. His brother has deposed that he was giving his earnings to him. To the

same effect is the evidence of the sister. We are inclined to accept their evidence and hold that they were depending on the contribution made by the deceased for their maintenance. He was aged about 25 years. His employer has also deposed that he was paying him Rs. 7 to Rs. 8/- per day. So it can be reasonably assumed that he was contributing to the family not less than Rs. 3/- per day. At that rate the dependency per month would be about Rs. 90/- and per year it would be Rs. 1,080/-. Since he was unmarried and had the immediate prospects of marrying his elder sister's daughters, we will assess his dependency for a period of five years and that comes to about Rs. 4,500/-. Accordingly, we award a sum of Rupees 5,400/- for loss of dependency to the claimants.

25. As regards loss of estate, we think the amount of compensation should be reduced to Rs. 5000/- regard being has to the earnings of the deceased and the nature of his work. Accordingly, a sum of Rs. 5000/- is awarded under this head.

26. Thus a global compensation of Rs. 10,400/- rounded off to Rs. 10,000/- is awarded to the cross-objector-claimants with interest at 6% per annum from the date of the petition up to the date of realisation. No costs. The M. F. A. is dismissed. Cross objections partly allowed.

27. Order accordingly.