

(1984) 09 J&K CK 0003

In the Jammu And Kashmir High Court

Case No : Civil First Miscellaneous Appeal No. 62 of 1982 and Cross-objection No. 13 of 1984

Union of India (UOI)

APPELLANT

Vs

Soma Babiloni and Others

RESPONDENT

Date of Decision : 28-09-1984

Acts Referred:

Motor Vehicles Act, 1988 — Section 110B

Citation : (1984) ACJ 728

Hon'ble Judges : M.L. Bhat, J;K.K. Gupta, J

Bench : Division Bench

Advocate : R.P. Sethi, for the Appellant; H.S. Hardesh and D.S. Parihar, for the Respondent

Final Decision : Dismissed

Judgement

K.K. Gupta, J.—Maj. D.K. Babiloni, a youngman of 34 years, was serving in the Indian array and was posted in 16 Corps, headquartered

at Nagrota. He had qualified from the Staff Course College and had obtained M.Sc. degree in Military Sciences from Madras. On November 15,

1980, at about 11 o'clock in the night he was travelling as a pillion rider on the scooter driven by Ashwani Koul, s/o Brig. K.K. Koul and was

going towards the residential quarters located at Nagrota Udhampur road after attending a function at Army club, Nagrota. He had also his family

consisting of his wife Mrs. Soma Babiloni and two children, who had left in a separate vehicle alongwith other ladies of army officers. In the way

about 3 kms. away from Nagrota towards Udhampur side, a 3-ton army vehicle, which was coming from opposite direction, hit the parapet and

then struck with the scooter driven by Ashwani Koul. Both the occupants of the

scooter were thrown aside on the ground resulting in extensive injuries to Maj. Babiloni who was first taken to M.I. room and afterwards removed to the military hospital. Maj. Babiloni, however, succumbed to the injuries on November 16, 1980 at about 4.30 a.m. It is alleged that 3 ton vehicle bearing No. 73D 2970-Y was being driven rashly by its driver Sepoy Sen Basappa of Tpt. Coy and this driver first dashed the vehicle against a parapet on the right side of the road and then struck it with the scooter driven by Ashwani Koul causing serious injuries to Maj. D.K. Babiloni, who was occupying rear seat of the scooter. The scooter was badly damaged.

The above said driver of the offending vehicle then ran away from the place of occurrence after having another dash with the scooter driven by Pilot Officer Jagdish. Maj. Babiloni was survived by his widow, two small children, parents and mentally retarded sister. He was the only son of his parents.

2. Two separate claim petitions, one, by Mrs. Soma Babiloni, widow of Major Babiloni and her two minor children and the other by Mr. B.R.

Babiloni, Mrs. Vidya Babiloni, father and mother of the deceased and Kumari Chandra, sister of the deceased, were filed before the J and K

Motor Accidents Claims Tribunal, Jammu, claiming compensation as according to them, the deceased was contributing whole of his income

towards their maintenance and welfare. Both these petitions were consolidated and heard simultaneously.

3. The claim petitions were contested by the Union of India through concerned Officer Commanding on the grounds that the vehicle in question

was never involved in the accident and moreover, the Union of India was not liable to pay any compensation because the driver of the vehicle was

performing sovereign function of Republic of India and thus immune from any liability.

4. The Claims Tribunal framed the following issues in the case for determination:

(1) Whether on 15.11.1980 at about 11 p.m. near Nagrota bridge Respondent No. 2 was rashly and negligently driving vehicle No. 73D 2970-

Y--Lorry 3-ton, owned by Union of India and as a result thereof the vehicle hit the scooter No. JKQ-1708 and in the hitting Maj. D.K. Babiloni

who was on the rear seat of the scooter sustained injuries leading to his death?

O.P.P

(2) On proof of issue 1 are the Petitioners entitled to receive compensation from the Respondents ? If so, of what value and in what proportion ?

O.P.P.

(3) Whether the Respondent 2 was performing the sovereign functions of Republic of India at the time of accident ? If so, what is its effect on the claim? O.P.R.

(4) Relief.

Both the parties led evidence in the case and the Tribunal after hearing both the sides, awarded compensation of Rs. 3,00,000/- alongwith interest

at the rate of 6% per annum from the date of claim till final payment to Mrs. Soma Babiloni, widow of deceased and her two minor children,

namely, Master Rohit and Kumari Poyeli Babiloni; Rs. 60,000/- to Kumari Chandra, sister of the deceased and Rs. 30,000/- to parents of the

deceased to be shared equally by them, alongwith interest at the rate of 6 per cent per annum, from the date of claim till the final payment. The

amount of compensation was required to be paid by the Union of India. Aggrieved by this order, the Union of India has come up in appeal before

this Court,

4-A. We have heard learned Counsels for the parties. The learned Counsel appearing for the Union of India has assailed the order of the Tribunal

on various grounds. According to him, there is no evidence on record to substantiate the plea raised by the Respondents herein that the accident

took place due to negligent and rash act of Sepoy Sen Basappa of the Transport Coy, as the accident occurred during the night and nobody was

expected to identify the driver or the vehicle. In this regard he has taken us to the evidence of various witnesses produced by the Respondents

herein. We, however, are not inclined to accept the abovesaid contention of the learned Counsel for the Appellant. The accident took place on

15.11.1980 at about 11 p.m. Ashwani Koul, who is son of Brig, K.K. Koul and was driving the scooter with Maj. D.K. Babiloni as pillion rider,

has appeared as a witness and according to him, before crossing the bridge near Nagrota he came across Pilot Officer Jagdish and Capt. A.R.

Ghosh, who were also travelling on a scooter. He waved them to stop and at the same time he saw a 3-ton military vehicle coming from the

opposite direction which had crossed the bridge and was about to take a turn. He slowed down his scooter as the army vehicle was on its wrong

side and was being driven at an excessive speed. This witness has further stated that the army vehicle could not take the turn properly and in that

process it hit with a parapet. He tried to avoid the offending vehicle but the army vehicle hit right rear side of his scooter and he and Maj. Babiloni

were thrown aside. He got up and then heard another bang and came to know that the said army vehicle had hit scooter of Pilot Officer Jagdish.

He noticed that Maj. Babiloni was lying unconscious and there was bleeding from his mouth. His scooter had been badly damaged. At that time

Maj. Sirsekar came to that place on his scooter and stopped a taxi and took Maj. Babiloni to M.I. room from where he was sent to military

hospital at Jammu for treatment. Maj. Babiloni, however, died next morning. He has further deposed that the accident had occurred because of the

rashness and negligence of military driver whose name was subsequently known as Sen Basappa. Another witness produced by the Petitioners in

the main petition, was Kuldeep Kumar, a resident of Nanak Nagar, Jammu, who has also given an eye account of the occurrence. According to

this witness, he was going on a scooter towards Katra and near Nagrota Toll Post, he saw two scooters crossing him. At the same time, an army

vehicle coming from opposite direction hit the parapet and then struck with two scooters one after the other. He has termed the speed of the army

vehicle as excessive and the vehicle was being driven towards wrong side. He chased the army vehicle but could not pursue it further but he noted

the registration mark of the vehicle as 73D 2970-Y. Another witness Capt. A.R. Ghosh has stated that during the night of 15/16th November,

1980, at about 11 o' clock he was coming back from Udhampur side towards Nagrota and was pillion rider on the scooter driven by Pilot Officer

T. Jagdish. After crossing the bridge in front of 966 Tpt Coy which was about 3 kms. from Nagrota Bazar towards Udhampur, he saw a scooter

moving by that side. Maj. Babiloni was expected to be that side along-with other officer and before he could actually make out anything, the

scooter crossed his scooter. Soon after he heard a loud bang from behind and then saw a vehicle with both the headlights, rushing towards his

scooter from the left hand side of the road trying to swing the vehicle on to the centre of the road. To avoid being hit by the vehicle, he shouted and

asked Jagdish to go right and he jumped from the scooter. The same vehicle crossed and hit the scooter on which he was travelling and then ran

away. The vehicle was going in a zig zag manner. He then heard some body shouting to stop the vehicle and he asked Jagdish to chase the vehicle

because he suspected some foul play apart from hitting of the vehicle to his scooter. He however could not chase the vehicle because of shortage

of petrol. He rushed towards the spot from where the shouts were coming and found Ashwani Koul standing on the roadside and Maj. Babiloni

lying on the ground with injuries on his body. He was told by Ashwani Koul that the same vehicle had hit their scooter. At that time a taxi came and

with the help of the occupants of the taxi, they all took Maj. Babiloni to M.I. room, Nagrota where doctor attended him. The vehicle involved in

the accident was a 3 tonner army vehicle and as such he rang to A.A.G. of Corps Headquarters about the accident. T.C.P. was also informed and

search was carried out in different units and in the morning a 3-ton vehicle of the army was found in the 966 Tpt Coy whose head paint marked on

the bumper and tyres resembled to that of the colour of the scooter, driven by Ashwani Koul and owned by Maj. Babiloni. Subsequently in

accordance with the forensic report it was established that the colour of the paint found on the offending vehicle and that of the scooter of Maj.

Babiloni tallied with each other. This witness has further stated that driver of the offending vehicle Sepoy Sen Basappa, was tried by a Court

Martial and punished. He appeared before that court as a witness.

5. The abovesaid three witnesses, namely, Ashwani Koul, Kuldip Kumar and Capt. A.R. Ghosh have explained the circumstances which led to the

accident resulting in the death of Maj. Babiloni. They all saw three-ton vehicle of the army which was involved in the accident. No doubt, it was

late in the night and the driver of the vehicle also ran away from the place of occurrence, but the description of the vehicle given by Capt. A.R.

Ghosh and Ashwani Koul tallied with the vehicle found running by Kuldip Kumar. This witness Kuldip Kumar also noted down the number of

army vehicle. The learned Counsel for the Appellant, has however, tried to condemn this witness being chance witness and of immoral character

being involved in a criminal case, but we feel that the testimony of this witness cannot be discarded merely on the ground that this witness was

found at such odd hours going towards Katra or was involved in a criminal case. This witness has no interest either in the welfare of the

Respondents herein or has any enmity with the driver of the vehicle involved in the accident. The evidence of the abovesaid witnesses thus lead us

to the only conclusion that the accident had occurred due to the rash and negligent act of Sepoy Sen Bassapa who was actually driving the vehicle.

This driver of the vehicle was tried by a Court Martial for causing the said accident and was punished for it.

6. Besides the evidence of the above-said witnesses there is also testimony of Havaladar Amar Ram examined by the Union of India, according to

whom, Basappa driver was driving the vehicle towards Nagrota during the intervening night of 15/16th November, 1980 and it hit a parapet for

which he was tried by a Court Martial and convicted. Sen Basappa has also appeared as a witness and he has admitted about the striking of his 3-

ton vehicle with a parapet but according to him, the vehicle did not strike with any scooter. He has, however, admitted about Maj. Babiloni,

involved in the accident and his being a suspect for causing such accident. This evidence also points out that the accident which caused death of

Maj. Babiloni was due to rash and negligent act of Sepoy Sen Basappa who was driving the army vehicle.

7. The next point raised by the learned Counsel for the Appellant is regarding the quantum of compensation awarded by the Tribunal which,

according to him, is excessive and not in accordance with law. In this respect he has pleaded that the widow and children of the deceased have

been awarded an amount of Rs. 3,00,000/- but the amount of pension, provident fund and gratuity, had not been deducted. In support of his

contention he has cited rulings reported in Sushila Devi v. Ibrahim 1974 A.C.J. 150 (M.P.) and State of Jammu and Kashmir v. Pushpa Devi 1979

A.C.J. 403 (J. and K.). The learned Counsel for the Respondents, on the other hand, has contended that Mrs. Soma Babiloni was a young

woman of 22 years when her husband, the deceased, met with a fatal accident and she had two little children at that time and considering the

position, her husband was holding at the time of death, the compensation awarded was not in any manner excessive and also no deductions, as

argued by the other side, were required to be made in view of the authorities reported in Kashiram Mathur v. Sardar Rajendra Singh 1983 A.C.J.

152 (M.P.) and Bhagat Singh Sohan Singh v. Om Sharma 1983 A.C.J. 203 (P. and H.). We have considered these contentions raised by either side.

8. Maj. D.K. Babiloni was 34 years of age at the time of accident involving his death. Admittedly, he was getting salary of Rs. 2,200/- per month.

The deceased was to retire at the age of 54 years in case he had not been promoted to higher ranks for which the age of retirement was 58. The

Tribunal has taken into consideration the admitted retirement age of 54 years while calculating and assessing the compensation. The earnings of the

deceased for a period of 20 years at the rate of Rs. 2,200/- per month amounted to Rs. 5,28,000/-. The Tribunal has taken 20 years period of

dependency considering the young age of the widow of the deceased and small age of the children for the purpose of education, maintenance and

marriage and awarded Rs. 2,20,000/- to be shared by them equally. While assessing the compensation, the Tribunal has considered the necessity

of the widow and the children for a period of 20 years at the rate of Rs. 1,000/- per month. We feel that the Tribunal has assessed this amount of

compensation in a right perspective considering all the circumstances and it does not require any interference. We, however, find that the Tribunal

has reduced an amount of Rs. 20,000/- from the calculated amount of Rs. 2,40,000/- on account of uncertainties of life and accelerated payment

which should have been Rs. 40,000/- being 1/6th of the total amount. This variation of Rs. 20,000/- is required to be deducted from the abovesaid

amount of Rs. 2,20,000/- allowed to the widow and children of the deceased.

9. The Tribunal has awarded Rs. 30,000/- to the widow of the deceased, Mrs. Soma Babiloni, for the enjoyment of life considering her young age

and the miseries she has to suffer during the days to come. We also do not find any illegality in the award in this respect and thus confirm the finding

of the Tribunal in this behalf.

10. The Tribunal has awarded Rs. 50,000/- to the widow and children of the deceased, on account of loss to the estate of the deceased. In

assessing this amount the Tribunal has taken into consideration the personal expenditure of the deceased placing it to be at Rs. 500/- per month,

This finding of the Tribunal is also in accordance with the circumstances of the case and does not require any interference.

11. Mrs. Soma Babiloni has been granted pension of Rs. 400/- per month and her children have been allowed Rs. 214/- per month as education

allowance. She has also received Rs. 60,000/- as Group Insurance on the death of her husband and Rs 20,000/- from the Life Insurance

Corporation of India. The provident fund and gratuity admissible under rules to the deceased were also paid to her. She has thus received Rs.

1,80,000/- in all. Now the point for determination is whether the abovesaid amount received by her is required to be deducted from the

compensation awarded to her by the Tribunal. The first authority cited by the learned Counsel for the Appellant of Madhya Pradesh High Court

reported in *Sushila Devi v. Ibrahim* 1974 A.C.J. 150 (M.P.) has been overruled by a Full Bench decision of the same Court in case of *Kashiram*

Mathur v. Sardar Rajendra Singh 1983 A.C.J. 152 (M.P.). The other authority cited by the learned Counsel for the Appellant is of this Court

reported in *State of Jammu and Kashmir v. Pushpa Devi* 1979 A.C.J. 403 (J. and K.). In this case a suit had been filed by Mrs. Pushpa Devi,

widow of the deceased for the recovery of damages as compensation for the death of her husband, who was killed because of the rash and

negligent act of a driver who was employed by the Defendant-State. While awarding compensation, their Lordships made deductions of pension

and G.P. Fund received by the widow of the deceased. Their Lordships have remarked that the compensation worked out would be just and fair

under the circumstances. They did not give any reason about the deductions required to be made and it seems that the contentions of the parties

weighed before them while making such deductions. Their Lordships have not laid down any criteria which requires to be followed while making

deductions. On the other hand, we have before us, Full Bench authorities of the High Courts of Madhya Pradesh and Punjab and Haryana in

Kashiram Mathur v. Sardar Rajendra Singh 1983 A.C.J. 152 (M.P.) and *Bhagat Singh Sohan Singh v. Om Sharma* 1983 A.C.J. 203 (P. and H.),

which lay down the criteria for assessing the compensation and also in regard to the deductions required to be made. In the former authority their

Lordships have held as under:

...If the deceased was entitled to the amount of insurance under a contract and for which he had paid premiums (as in the present case) the receipt

of such an amount by the legal representatives is not deductible from the damages payable to them. The deceased had not insured himself and paid premiums all the years during his life time for the benefit of the tortfeasor. This sum, represented his thrift for his own benefit and for the benefit of his family. It was, therefore, not for the tortfeasor to seek any advantage out of this receipt.

The same principle will apply to payments of provident fund and gratuity. Provident fund constituted the amount which the deceased had himself deposited out of his salary 'for the rainy day'. This amount was payable to him and the family would have taken the benefit of this amount even if the deceased were to be alive. This amount was not an advantage 'by reason of his death'. This sum was, therefore, not deductible from compensation.

Gratuity under the conditions of service was the right of the deceased employee after completing certain years of service and had he survived he would have received the same and his dependants would have taken advantage thereof. Payment of gratuity was not necessarily consequential to his death, but was otherwise also payable to him. The amount of gratuity paid to the widow could not be deducted.

In the latter authority the principle laid down is as follows:

Again it has to be pointedly borne in mind that in India there had been no authoritative line of precedent that insurance money was deductible for assessing damages under the Indian Fatal Accidents Act barring a few discordant notes here and there. Therefore no legislative amendment, as had become necessary in England, was called for here in India. The absence of any subsequent amendment in Indian Fatal Accidents Act is, therefore, in no way conclusive. As has already been noticed, it is well settled that under the general law in case of injuries, insurance benefits are to be excluded from consideration. There appears to be no reason why the same principles should not be applicable where such personal injury may ultimately prove to be fatal. It is not easy to support the rationale that had the injured been maimed for life he would have had the benefit of his contract of accident insurance but if he dies of the same injury his dependants, who legally represent him, would lose the same benefit. I would, therefore, hold that both as regards personal injury as also in cases culminating

in the death of the victim under the general law as also under the

Fatal Accidents Act, insurance benefits cannot be taken into consideration in mitigation of damages.

XX XX XX XX XX

To conclude on this aspect it seems to be well settled that on the basis of legislative history, on general principle, on the language of Section 110-B

and on authoritative precedent insurance benefits accruing to the deceased victim of an automobile accident are not to be taken into account for

assessing just compensation to his dependants.

XX XX XX XX XX

From the aforesaid discussion, it clearly emerges that the intrinsic nature of benefits like the provident fund, family pension or gratuity is that they

are the deferred fruits of satisfactory service, industry, thrift, contributions and foresight of the employee. Equally, these may be the necessary

incidents of statutory service rules, employment contracts, or beneficent legislation rooted in the employment of the deceased. To attribute these

payments entirely to the fortuitous circumstance of the accident and the resultant death, appears to me as untenable. It is more than plain that if the

deceased happened to be a person who was not in the employment at all or one who had neither made any contribution to any provident fund nor

rendered qualifying satisfactory service entitling him to gratuity or made any payments for a family pension, then none of these benefits would arise

to his dependants despite his death. It is indeed the aforesaid preconditions which are the true fountainhead of these benefits and not ipso facto the

incidence of the accident and the consequent death. Herein what deserves highlighting is the sharp distinction (which sometimes has unfortunately

gone unnoticed) between benefits arising on account of death alone and those that are merely deferred earnings payable on superannuation or the

death of the employee, I am clearly of the view that provident fund, family pension or gratuity fall clearly in the latter class.

XX XX XX XX XX

Again one must recall the well known principle of the assessment of damages generally and equally for the dependants of the victim of an

automobile accident. The heart of the matter herein is to evenly balance, as if in a golden scale, the financial loss to the dependants on one side and

financial gain or benefit directly arising from the death of the victim on the other. However, the somewhat ticklish question is as to what are the

financial gains arising on account of the death which alone can be put in the balance. In this balancing operation the Court has to be on its guard

that on one hand the dependants should not be put to any financial loss whatsoever and on the other that the death of the victim and the resultant

grant of damages should not serve as a windfall to them. This was so observed by the Full Bench in Lachman Singh's case 1979 A.C.J. 170 (P.

and H.). Particularly, in India where as yet the family bonds are strong the death of the bread-winner is a catastrophe which is both irreparable and

irremediable. It is true that solatium is alien to the concept of compensation and perhaps one of the reasons therefor is that damages in this field

would be wholly speculative in nature. However, can it on the other extreme be possibly said that the exclusion of the financial benefits, like

insurance, provident fund, family pension or gratuity for computing compensation would amount to a windfall for the dependants. I do not think so.

As has been shown earlier these financial benefits are in essence the deferred earning of the victim of the accident or the result of his savings, his

thrift or foresight. The dependants, even otherwise would have the benefit of these sums in due course. To take these away from the rightful

claimants and to enure them only for the benefit of the tortfeasor is something which rightly shocks the judicial conscience. I would, therefore, hold

that in the light of the true principles underlying the grant of just compensation benefits like provident fund, family pension or gratuity cannot go in

mitigation of damages payable by the tortfeasor and are, therefore, not deductible.

XX XX XX XX XX

To finally conclude, the answer to the question posed at the outset is rendered in the negative and it is held that the receipt of insurance, provident

fund, pension or gratuity benefits by the dependants of the victim of an automobile accident must be altogether excluded from consideration in the

award of compensation to them u/s 110-B of the Motor Vehicles Act.

The principle laid down in these authorities is most proper and just and requires to be followed.

12. Section 110-B of the Motor Vehicles Act, authorises the Claims Tribunal to

assess the amount of compensation and make an award

determining the amount of compensation to be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of

them, as the case may be. The Tribunal is thus required to determine the amount of compensation which appears to be just and proper. The matter

is thus required to be adjudicated upon and decided on the larger perspectives of justice, equity and good conscience. The law as contained in the

above referred section of the Motor Vehicles Act, gives the Tribunal ample powers to determine as to what indeed would be the just

compensation to ameliorate the loss of the dependants of the deceased victim of a highway accident.

13. The pension one earns on superannuation or death and it is granted under well settled rules. This benefit cannot be denied to the person entitled

to it merely on the ground that he or she had received certain other benefits. In fact, it is a right which one inherits on completion of a set period of

service or on death. In the instant case the army authorities allowed pension to Mrs. Soma Babiloni, widow of the deceased on the death of her

husband. She is a young lady and has decided not to remarry because of the welfare of her children. She is thus making sacrifice for which she

cannot be condemned or held guilty otherwise. She has been deprived of her illustrious husband at such a young age. Under such circumstances

the pension benefits allowed to her or the education allowance provided to her children cannot be deducted from the compensation awarded to

her and her children.

14. Mrs. Soma Babiloni, widow of the deceased received amounts out of Group Insurance Scheme and Life Insurance policy. Such amounts were

paid to her because of the contract entered into by her and her husband on the one hand and the insurance company, on the other. The amount

was payable to her under that very contract for which her husband was regularly paying premium and she became entitled to it on account of its

maturity as a result of the death of her husband. This amount represented the benefit which the deceased had chosen to derive for the welfare of his

family. The amount is thus not deductible from the amount of compensation awarded to her.

15. Late Maj. D.K. Babiloni was contributing towards provident fund during the

course of his service. This 'was the amount which he saved from his earnings and it was payable to him even if he was alive. In fact, it is a contribution made by an employee to save something for his rainy days.

Similar is the case with the gratuity which an employee earns after completing certain years of service. This amount is payable to him under specific rules provided for the same. These amounts, i.e., provident fund and gratuity are thus meant for the benefit of an employee and payable to him under certain norms and procedures and the same cannot be deducted from the compensation awarded.

16. Now we revert to the compensation awarded to Mr. B.R. Babiloni and Mrs. Vidya Babiloni, father and mother of the deceased, who have

been allowed an amount of Rs. 30,000/-. Admittedly, the deceased was the only son of his parents. Mr. B.R. Babiloni, father of the deceased is

an aged man of 67 years and he has retired from service. He is not getting any pension because of his being in service in a corporation. As it

appears from the statement of Mr. B.R. Babiloni, the deceased was remitting the amounts to him regularly for the welfare of his parents. Mr. B.R.

Babiloni has produced certificate issued by the State Bank of India, Bhilai branch, showing certain cheques received by him from his deceased

son. No doubt, this certificate is inadmissible in evidence because it has not been proved in accordance with law but the evidence of Mr. B.R.

Babiloni remained un-rebutted on this score. The fact thus remained that the parents of the deceased were dependant upon the deceased They

have been awarded compensation of Rs. 30,000/- which, according to us, is not excessive in any manner and does not require any interference.

17. Kumari Chandra Babiloni, is mentally retarded sister of late Maj. D.K. Babiloni. She is admitted in the School of Children in need of special

care at Bombay. The fee which is required to be paid for her care and maintenance comes around Rs. 3,000/- per year. It is on record that the

deceased was contributing the charges payable for his mentally retarded sister. After calculations, the Tribunal has awarded an amount of Rs.

60,000/- as compensation payable to her. In cross-objections filed on her behalf, she has prayed for enhanced amount as, according to her, the

amount awarded by the Tribunal is insufficient and not just. We have considered the arguments advanced in this behalf by the learned Counsel

appearing for her and we feel that the amount awarded is just and reasonable. The finding arrived at by the Tribunal in this regard is, therefore, confirmed.

18. For the foregoing reasons, an amount of Rs. 20,000/- is required to be reduced from the amount of Rs. 3,00,000/-awarded to Mrs. Soma

Babiloni and her two minor children and this amount is to be deducted proportionately from their shares. With this modification the appeal is

dismissed. The cross-objections filed by Respondents 4, 5 and 6 are disposed of in the light of the above observations. The parties are left to bear

their own costs. The amount deposited by the Respondents shall be paid to the claimants and the balance shall be paid to the claimants by the

Respondents within one month from today.