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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment delivered on: 24<sup>th</sup> March, 2014*

+ **MAC.APP. 152/2014**

MOHD HASNAIN & ORS. .... Appellants

Represented by: Mr. O.P. Mannie,  
Mr. Navneet Goyal, Mr. Y.R. Sharma and  
Mr. Manish Maini, Advs.

Versus

JAGRAM MEENA & ORS. .... Respondents

Represented by: Mr. Sameer Nandwani, Adv.  
for R3.

**AND**

+ **MAC.APP. 232/2013**

CHOLAMANDALAM MS GENERAL INS. CO. LTD. .... Appellant

Represented by: Ms. Suman Bagga, Adv.

Versus

ASHOK SHARMA & ORS. .... Respondents

Represented by: Mr. J.S. Kanwar, Adv. for R1  
to R3.

**AND**

+ **MAC.APP. 1190/2012**

NEW INDIA ASSURANCE CO. LTD. .... Appellant

Represented by: Mr. J.P.N. Shahi, Adv.

Versus

CHHOTE LAL PRASAD & ORS .... Respondents

Represented by: Mr. Srikant Prasad and  
Mr. Janme Jay, Advs.

**AND**

+ **MAC.APP. 196/2013**

THE ORIENTAL INSURANCE CO. LTD. .... Appellant

Represented by: Mr. A.K. Soni, Adv.

Versus

A.K. PURI & ORS. .... Respondents

Represented by: Mr. Raman Duggal, Adv.

**CORAM:**  
**HON'BLE MR. JUSTICE SURESH KAIT**

**SURESH KAIT, J.**

1. Learned counsels appearing on behalf of the parties have submitted that the only issue involved in all these appeals is that whether the multiplier to be ascertained on the basis of age of the deceased or on the basis of age of the claimants? Accordingly, these appeals are being disposed of by this common judgment.

2. Mr. O.P. Mannie, learned counsel appearing for the claimants invited the attention of this Court to the various judgments of the Apex Court as under:-

- (i) *UPSRTC v. Trilok Chandra*, 1996, ACJ 831 SC;
- (ii) *Fakeerappa v. Karnataka Cement*, 2004, ACJ 699 SC;
- (iii) *New India Assurance Co. Ltd. v. Shanti Pathak* 2007 10 SCC 1;
- (iv) *Bilkish v. United India Insurance*, 2008 ACJ 1357 SC;
- (v) *Sarla Verma v. DTC and Ors.* 2009 (6) SCC 121;
- (vi) *P.S. Somanathan v. Distt. Insurance Officer*, 2011 ACJ 737 SC;
- (vii) *Amrit Bhanushali v. National Insurance Co. Ltd.* 2012 (6) SCALE 1;
- (viii) *Reshma Kumari & Ors. v. Madan Mohan & Anr.* (2013) 9 SCC 65; and
- (ix) *M.Mansoor v. United India insurance co. Ltd.*, 2013(12) SCALE 324.

Learned counsel ubmitted that the criteria for selection of multiplier is on the basis of age of the deceased.

3. On the other hand, Ms. Suman Bagga, learned counsel appearing for the respondent /Insurance Company referred various judgments of the Apex Court as under:-

- (i) *General Manager, Kerala State Road Transport Corporation, Trivandrum v. Mrs. Susamma Thomas and Ors.* (1994) 2 SCC 176;
- (ii) *Nance v. British Columbia Electric Supply Co. Ltd.*; 1951 AC 601;
- (iii) *UPSRTC v. Trilok Chandra* (1996)4SCC362;
- (iv) *New India Assurance Co. Ltd. v. Shanti Pathak* 2007 10 SCC 1;
- (v) *Ramesh Singh and Anr. v. Satbir Singh and Anr.* 2008 2 SCC 667;
- (vi) *Sarla Verma Vs. DTC and Ors.* 2009 (6) SCC 121; and
- (vii) *National Insurance Co. Ltd. v. Shyam Singh and Ors.*, 2011 7 SCC 65

Learned counsel submitted that the selection or choice of multiplier would be based either on the age of the deceased or age of the claimants whichever is higher.

4. I have heard Ld. Counsels for the parties and perused the record.

5. The Motor Vehicles Act, 1988, is a beneficial piece of legislation; therefore as per 'Rule of Law', the provisions of law shall be interpreted in favour of the victims. Sections 163A and 166 of M.V. Act, 1988, enables the victim or the legal representative of victim, as the case may be, to claim compensation; and the rules for assessing the compensation are formulated on the concept of 'just compensation', as envisaged under Section 168 of M.V.Act.1988.

6. In order to assess just compensation, various parameters are prescribed under different accounts and heads. Basically, pecuniary and non-pecuniary damages are to be assessed, wherein the computation of loss of dependency is an important factor in the process of assessing the former. Importantly, the ascertainment of loss of dependency is based on two components, namely, 'multiplicand' and 'multiplier'.

7. In these appeals, an important point arises for consideration is in respect of the selection of multiplier.

8. Before adverting to the specific point of the selection of multiplier, it is important to discuss the multiplier method of assessment; and its applicability and acceptance in the concept of 'just compensation'.

9. The component of 'multiplier' indicates the actual purchasing capacity of the deceased in terms of the number of years, wherein the multiplicand is to be capitalized. Therefore, the application of 'multiplier method' is considered to be fair and reasonable in the process of assessment of damages. The Apex Court in the case of **KSRTC vs. Susamma Thomas, (1994) 2 SCC 176**, analyzed different aspects of the selection of multiplier by placing reliance upon various decisions and principles.

*“11. It is necessary to reiterate that the multiplier-method is logically sound and legally well-established. There are some cases which have proceeded to determine the compensation on the basis of aggregating the entire future earnings for over the period the life expectancy was lost, deducted a percentage therefrom towards uncertainties of future life and award the resulting sum as compensation. This is clearly unscientific. For instance, if the deceased was, say 25 years of age at the time of death and the life expectancy is 70 years, this method would multiply the loss of dependency for 45 years - virtually adopting a multiplier of 45 - and even if one third or one fourth is deducted therefrom towards the uncertainties of future life and for immediate lump sum payment, the effective multiplier would be between 30 and 34. This is wholly impermissible. We are aware that some decisions of the High Courts and of this Court as well have arrived at compensation on some such basis. These decisions cannot be said to have laid down a settled principle. They are merely instances of particular awards in individual cases. The proper method of computation is the multiplier-*

*method. Any departure, except in exceptional and extraordinary cases, would introduce inconsistency of principle, lack of uniformity and an element of unpredictability for the assessment of compensation. Some judgments of the High Courts have justified a departure from the multiplier method on the ground that Section 110(b) of the Motor Vehicles Act, 1939 in so far as it envisages the compensation to be 'just', the statutory determination of a 'just' compensation would unshackle the exercise from any rigid formula. It must be borne in mind that the multiplier-method is the accepted method of ensuring a 'just' compensation which will make for uniformity and certainty of the awards. We disapprove these decisions of the High Courts which have taken a contrary view. We indicate that the multiplier method is the appropriate method, a departure from which can only be justified in rare and extraordinary circumstances and very exceptional cases.*

*The multiplier represents the number of years' purchase on which the loss of dependency is capitalised. Take for instance a case 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 will take care of the dependency, perpetually. The multiplier in this case works out to 10. If the rate of interest is 5% per annum and not 10% then the multiplier needed to capitalise the loss of the annual dependency at Rs. 10,000/- would be 20. Then the multiplier, i.e., the number of years' purchase of 20 will yield the annual dependency perpetually. Then allowance to scale down the multiplier would have to be 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 feed also to be spent away over the period of dependency is to last etc. Usually in English Courts the operative multiplier rarely exceeds 16 as maximum. This will come down accordingly as the age of the deceased person (or that of the dependants, whichever is higher) goes up.*

*Here we may say a word on Pickett v. British Rail Engineering Ltd. (1979) 1 All ER 774 referred to by the High Court In an action for damages for personal injuries, the House of Lords overruling the decision of the Court of Appeal in Oliver and Ors. v. Ashman and Anr. (1961)3 All ER 323 , held that damages for loss of future earnings should include the whole period of earning life and not merely the post-accident expectancy. In other words, the plaintiff*

was held entitled to claim damages for lost earnings of lost years when the accident shortened his expectation of working life. On the same lines, the House of Lords in *Cammell v. Wilson and Ors.* (1981) 1 All ER 578, held that in addition to conventional and moderate damages for loss of expectation of life, damages for loss to the estate should include damages for loss of earnings of the lost years. Gammell's case was followed by a Division Bench of the Madhya Pradesh High Court in *Ramesh Chandra and Ors. v. Madhya Pradesh State Road Transport Corporation and Ors.* :1982 MPLJ 426: 1983 ACJ 221 . It was pointed out that the decision in Gammel's case was in line with the Supreme Court's decision in *Gobald Motor Service Ltd. v. R.M.K.Veluswami [supra]* in which it was held that "the capitalised value of his income subject to relevant deductions would be loss caused to the estate of the deceased". The annual loss to the estate was computed in Gammel's case to be the amount that the deceased would have been able to save, spend or distribute after meeting the cost of his living, and damages for loss to the estate were computed after applying a suitable multiplier to the annual loss. So, in computation of annual loss the amount that the deceased would have spent on dependents was not taken into account. The result of such a computation was that in cases where the dependants were not the persons to whom the estate devolved, there was likelihood of duplication of damages. To remove this risk, Parliament amended in 1982 the Law Reform (Miscellaneous Provisions) Act, 1934, by providing that damages recoverable for the benefit of the estate will not include any damages for loss of income in respect of any period after the victim's death (Administration of Justice Act, 1982 Section 4; WINFIFELD & JOLOWICZ, Tort, 12th edition pp. 659, 660).

In the present case the deceased was 39 years of age. His income was Rs. 1032/- per month. Of course, the future prospects of advancement in life and career should also be sounded in terms of money to augment the multiplicand. While the chance of the multiplier is determined by two factors, namely, 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. Indeed, many factors have to be put into the scales to evaluate the contingencies of the future. All contingencies of the future need not necessarily be baneful."

10. Thereafter, on 14.11.1994, Section 163 A of M.V. Act came into force in the form of an amendment with structured formula as mentioned in the Second Schedule of the Act. The perusal of the Second Schedule indicates that the 'multiplier' is mentioned corresponding to the age of victim; and it varies from '15'to '5'. It is also important to note that the maximum multiplier has been fixed at '18'whereas, in **Susamma Thomas**, the same has been fixed at '16'.

11. Subsequent to the introduction of Section 163A and the Second Schedule of the Act, the courts/tribunals have followed hybrid methods which had been lacking the consistency and uniformity in the assessment of compensation. Therefore, in **UPSRTC Vs. Trilok Chandra (1996)4SCC362**, the Apex Court analyzed the principles laid down in **Susamma Thomas** case in the light of Section 163A and the Second Schedule of the Act. The relevant portion of the same reads as under:-

*"15. We thought it necessary to reiterate the method of working out 'just' compensation because, of late, we have noticed from the award made by Tribunals and Courts that the principle on which the multiplier method was developed has been lost sight of and once again a hybrid method based on the subjectivity of the Tribunal/Court has surfaced, introducing uncertainty and lack of reasonable uniformity in the matter of determination of compensation. It must be realised that the Tribunal/Court has to determine a fair amount of compensation awardable to the victim of an accident which must be proportionate to the injury caused. The two English decisions to which we have referred earlier provide the guidelines for assessing the loss occasioned to the victims. Under the formula advocated by Lord Wright in Davies, the loss has to be ascertained by first determining the monthly income of the deceased, then deducting therefrom the amount spent on the deceased, and thus assessing the loss to the dependents of the deceased. The annual dependency assessed in this manner is then to be multiplied by the use of an appropriate multiplier. Let us illustrate: X, male, aged about 35 year, dies in an accident. He leaves behind his widow and 3*

minor children. His monthly income was Rs. 3,500. First, deduct the amount spent on X every month. The rough and ready method hitherto adopted where no definite evidence was forthcoming, was to break up the family into units, taking two units for an adult and one unit for a minor. Thus X and his wife make  $2 + 2 = 4$  units and each minor one unit i.e. 3 units in all, totaling 7 units. Thus the share per unit works out to Rs.  $3,500 \div 7 =$  Rs. 500 per month. It can thus be assumed that Rs. 1000 was spent on X. Since he was a working member some provision for his transport and out-of-pocket expense has to be estimated. In the present case we estimate the out-of-pocket expense at Rs. 250. Thus the amount spent on the deceased X works out to Rs. 1250 per month leaving a balance of Rs.  $3500 - 1250 =$  Rs. 2250 per month. This amount can be taken as the monthly loss to X's dependents. The annual dependency comes to Rs.  $2250 \times 12 =$  Rs. 27,000. This annual dependency has to be multiplied by the use of an appropriate multiplier to assess the compensation under the head of loss to the dependents. Take the appropriate multiplier to be 15. The compensation comes to Rs.  $27,000 \times 15 =$  Rs. 4,05,000. To this may be added a conventional amount by way of loss of expectation of life. Earlier this conventional amount was pegged down to Rs. 3000 but now having regard to the fall in the value of the rupee, it can be raised to a figure of not more than Rs. 10,000. Thus the total comes to Rs.  $4,05,000 + 10,000 =$  Rs. 4,15,000.

16. In the method adopted by Viscount Simon in the case of Nance also, first the annual dependency is worked out and then multiplied by the estimated useful life of the deceased. This is generally determined on the basis of longevity. But then, proper discounting on various factors having a bearing on the uncertainties of life, such as, premature death of the deceased or the dependent, remarriage, accelerated payment and increased earning by wise and prudent investments, etc., would become necessary. It was generally felt that discounting on various imponderables made assessment of compensation rather complicated and cumbersome and very often as a rough and ready measure, one-third to one-half of the dependency was reduced, depending on the life-span taken. That is the reason why courts in India as well as England preferred the Davies' formula as being simple and more realistic. However, as observed earlier and as pointed out in *Susamma nomas'* case, usually English courts rarely exceed 16 as the multiplier. Courts in India too followed the same pattern till recently when Tribunals/Courts began to use a

*hybrid method of using Nance's method without making deduction for imponderables.*

*17. The situation has now undergone a change with the enactment of the Motor Vehicles Act, 1988, as amended by Amendment Act, 54 of 1994. The most important change introduced by the amendment insofar as it relates to determination of compensation is the insertion of Sections 163A and 163B in Chapter XI entitled 'Insurance of Motor Vehicles against Third Party Risks'. Section 165A begins with a non-obstante clause and provides for payment of compensation, as indicated in the Second Schedule, to the legal representatives of the deceased or injured, as the case may be. Now if we turn to the Second Schedule, we find a table fixing the mode of calculation of compensation for third party accident injury claims arising out of fatal accidents. The first column gives the age group of the victims of accident, the second column indicates the multiplier and the subsequent horizontal figures indicate the quantum of compensation in thousand payable to the heirs of the deceased victim. According to this table the multiplier varies from 5 to 18 depending on the age group to which the victim belonged. Thus, under this schedule the maximum multiplier can be upto 18 and not 16 as was held in Susamma Thomas' case.*

*18. We must at once point out that the calculation of compensation and the amount worked out in the schedule suffer from several defects. For example, in item No, 1 for a victim aged 15 years, the multiplier is shown to be 15 years' and the multiplicand is shown to be Rs. 3000. The total should be  $3000 \times 15 = 45,000$  but the same is worked out at Rs. 60,000. Similarly, in the second item the multiplier is 16 and the annual income is Rs. 9000; the total should have been Rs. 1,44,000 but shown to be Rs. 1,71,000. To put it briefly, the table abounds in such mistakes. Neither the Tribunals nor the courts can go by the ready reckoner. It can only be used as a guide. Besides, the selection of multiplier cannot in all cases be solely dependent on the age of the deceased. For example, if the deceased, a bachelor, dies at the age of 45 and his dependents are his parents, age of the parents would also be relevant in the choice of the multiplier. But these mistakes are limited to actual calculations only and not in respect of other items. What we propose to emphasise is that the multiplier cannot exceed 18 years' purchase factor. This is the improvement over the earlier position that ordinarily it should not exceed 16. We*

*thought it necessary to state the correct legal position as Courts and Tribunals are using higher multiplier as in the present case where the Tribunal used the multiplier of 24 which the High Court raised to 34, thereby showing lack of awareness of the background of the multiplier system in Davies' case."*

12. Apart from the selection of multiplier, the assessment of multiplicand has been considered in ***Trilok Chandra (Supra)***, such as various deductions on account of personal living expenses and addition of future prospects. However, the factors such as future prospects and personal deductions have been discussed conceptually, and guidelines have been drawn by the Apex Court in the case of ***Sarla Verma Vs. DTC and Ors. 2009 (6) SCC 121***. In order to settle the issues regarding the assessment of future prospect, personal deduction and selection of multiplier, the Apex Court has held in ***Sarla varma*** as under:-

*"9. Basically only three facts need to be established by the claimants for assessing compensation in the case of death : (a) age of the deceased; (b) income of the deceased; and the (c) the number of dependents. The issues to be determined by the Tribunal to arrive at the loss of dependency are (i) additions/deductions to be made for arriving at the income; (ii) the deduction to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference of the age of the deceased. If these determinants are standardized, there will be uniformity and consistency in the decisions. There will lesser need for detailed evidence. It will also be easier for the insurance companies to settle accident claims without delay. To have uniformity and consistency, Tribunals should determine compensation in cases of death, by the following well settled steps:*

**Step 1 (Ascertaining the multiplicand)**

*The income of the deceased per annum should be determined. Out of the said income a deduction should be made in regard to the amount which the deceased would have spent on himself by way of personal*

*and living expenses. The balance, which is considered to be the contribution to the dependant family, constitutes the multiplicand.*

*Step 2 (Ascertaining the multiplier)*

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

*Step 3 (Actual calculation)*

*The annual contribution to the family (multiplicand) when multiplied by such multiplier gives the 'loss of dependency' to the family.*

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

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

*16. In Susamma Thomas, this Court stated the principle relating to multiplier thus:*

*The multiplier represents the number of years' purchase on which the loss of dependency is capitalized. Take for instance a case 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 will take care of the dependency, perpetually, the multiplier in this case work out to 10. If the rate of interest is 5% per annum and not 10% then the multiplier needed to capitalize the loss of the annual dependency at Rupees 10,000 would be 20. Then the multiplier, i.e. the number of years' purchase of 20 will yield the annual dependency perpetually. Then allowance to scale down the multiplier would have to be made taking*

*into account the uncertainties of the future, the allowances for immediate lumpsum payment, the period over which the dependency is to last being shorter and the capital feed also to be spent away over the period of dependency is to last etc., Usually in English Courts the operative multiplier rarely exceeds 16 as maximum. This will come down accordingly as the age of the deceased person (or that of the dependents, whichever is higher) goes up.*

*17. The Motor Vehicle Act, 1988 was amended by Act 54 of 1994, inter alia inserting Section 163A and the Second Schedule with effect from 14.11.1994. Section 163A of the MV Act contains a special provision as to payment of compensation on structured formula basis, as indicated in the Second Schedule to the Act. The Second Schedule contains a Table prescribing the compensation to be awarded with reference to the age and income of the deceased. It specifies the amount of compensation to be awarded with reference to the annual income range of Rs. 3,000/- to Rs. 40,000/-. It does not specify the quantum of compensation in case the annual income of the deceased is more than Rs. 40,000/-. But it provides the multiplier to be applied with reference to the age of the deceased. The table starts with a multiplier of 15, goes upto 18, and then steadily comes down to 5. It also provides the standard deduction as one-third on account of personal living expenses of the deceased. Therefore, where the application is under Section 163A of the Act, it is possible to calculate the compensation on the structured formula basis, even where compensation is not specified with reference to the annual income of the deceased, or is more than Rs. 40,000/-, by applying the formula :  $(\frac{2}{3} \times AI \times M)$ , that is two-thirds of the annual income multiplied by the multiplier applicable to the age of the deceased would be the compensation. Several principles of tortious liability are excluded when the claim is under Section 163A of MV Act. There are however discrepancies/errors in the multiplier scale given in the Second Schedule Table. It prescribes a lesser compensation for cases where a higher multiplier of 18 is applicable and a larger compensation with reference to cases where a lesser multiplier of 15, 16, or 17 is applicable. From the quantum of compensation specified in the table, it is possible to infer that a clerical error has crept in the Schedule and the 'multiplier' figures got wrongly typed as 15, 16, 17, 18, 17, 16, 15, 13, 11, 8, 5 & 5 instead of 20, 19, 18, 17, 16, 15, 14, 12, 10, 8, 6 and 5. Another noticeable incongruity is, having prescribed the notional minimum income of non-earning persons as*

*Rs. 15,000/- per annum, the table prescribes the compensation payable even in cases where the annual income ranges between Rs. 3000/- and Rs. 12000/-. This leads to an anomalous position in regard to applications under Section 163A of MV Act, as the compensation will be higher in cases where the deceased was idle and not having any income, than in cases where the deceased was honestly earning an income ranging between Rs. 3000/- and Rs. 12,000/- per annum. Be that as it may.*

*18. The principles relating to determination of liability and quantum of compensation are different for claims made under Section 163A of MV Act and claims under Section 166 of MV Act. (See : Oriental Insurance Co. Ltd. v. Meena Variyal : AIR 2007 SC 1609). Section 163A and Second Schedule in terms do not apply to determination of compensation in applications under Section 166. In Trilok Chandra, this Court, after reiterating the principles stated in Susamma Thomas, however, held that the operative (maximum) multiplier, should be increased as 18 (instead of 16 indicated in Susamma Thomas), even in cases under Section 166 of MV Act, by borrowing the principle underlying Section 163A and the Second Schedule. This Court observed:*

*Section 163A begins with a non obstante clause and provides for payment of compensation, as indicated in the Second Schedule, to the legal representatives of the deceased or injured, as the case may be. Now if we turn to the Second Schedule, we find a table fixing the mode of calculation of compensation for third party accident injury claims arising out of fatal accidents. The first column gives the age group of the victims of accident, the second column indicates the multiplier and the subsequent horizontal figures indicate the quantum of compensation in thousand payable to the heirs of the deceased victim. According to this table the multiplier varies from 5 to 18 depending on the age group to which the victim belonged. Thus, under this Schedule the maximum multiplier can be up to 18 and not 16 as was held in Susamma Thomas case..... Besides, the selection of multiplier cannot in all cases be solely dependent on the age of the deceased. For example, if the deceased, a bachelor, dies at the age of 45 and his dependents are his parents, age of the parents would also be relevant in the choice of the multiplier.....What we propose to emphasise is that the multiplier cannot exceed 18 years'*

*purchase factor. This is the improvement over the earlier position that ordinarily it should not exceed 16.*

*19. In New India Assurance Co. Ltd. v. Charlie : AIR 2005 SC 2157, this Court noticed that in respect of claims under Section 166 of the MV Act, the highest multiplier applicable was 18 and that the said multiplier should be applied to the age group of 21 to 25 years (commencement of normal productive years) and the lowest multiplier would be in respect of persons in the age group of 60 to 70 years (normal retiring age). This was reiterated in TN State Road*

| Age of the Deceased | Multiplier scale as envisaged in Susamma Thomas | Multiplier scale as adopted by Trilok Chandra | Multiplier scale in Trilok Chandra as clarified in Charlie | Multiplier specified in second column in the Table in II Schedule to MV Act | Multiplier actually used in Second Schedule to MV Act (as seen from the quantum of compensation) |
|---------------------|-------------------------------------------------|-----------------------------------------------|------------------------------------------------------------|-----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| (1)                 | (2)                                             | (3)                                           | (4)                                                        | (5)                                                                         | (6)                                                                                              |
| Upto 15 yrs.        | —                                               | —                                             | 15                                                         | 20                                                                          |                                                                                                  |
| 15 to 20 yrs.       | 16                                              | 18                                            | 18                                                         | 16                                                                          | 19                                                                                               |
| 21 to 25 yrs.       | 15                                              | 17                                            | 18                                                         | 17                                                                          | 18                                                                                               |
| 26 to 30 yrs.       | 14                                              | 16                                            | 17                                                         | 18                                                                          | 17                                                                                               |
| 31 to 35 yrs.       | 13                                              | 15                                            | 16                                                         | 17                                                                          | 16                                                                                               |
| 36 to 40 yrs.       | 12                                              | 14                                            | 15                                                         | 16                                                                          | 15                                                                                               |
| 41 to 45 yrs.       | 11                                              | 13                                            | 14                                                         | 15                                                                          | 14                                                                                               |
| 46 to 50 yrs.       | 10                                              | 12                                            | 13                                                         | 13                                                                          | 12                                                                                               |
| 51 to 55 yrs.       | 9                                               | 11                                            | 11                                                         | 11                                                                          | 10                                                                                               |
| 56 to 60 yrs.       | 8                                               | 10                                            | 09                                                         | 8                                                                           | 8                                                                                                |
| 61 to 65 yrs.       | 6                                               | 08                                            | 07                                                         | 5                                                                           | 6                                                                                                |
| Above 65 yrs.       | 5                                               | 05                                            | 05                                                         | 5                                                                           | 5                                                                                                |

*Transport Corporation Ltd. v. Rajapriya : AIR 2005 SC 2985 and UP State Road Transport Corporation v. Krishna Bala : AIR 2006 SC 2688. The multipliers indicated in Susamma Thomas, Trilok Chandra and Charlie (for claims under Section 166 of MV Act) is given below in juxtaposition with the multiplier mentioned in the Second Schedule for claims under Section 163A of MV Act (with appropriate deceleration after 50 years):*

*20. Tribunals/courts adopt and apply different operative multipliers. Some follow the multiplier with reference to*

*Susamma Thomas (set out in column 2 of the table above); some follow the multiplier with reference to Trilok Chandra, (set out in column 3 of the table above); some follow the multiplier with reference to Charlie (Set out in column (4) of the Table above); many follow the multiplier given in second column of the Table in the Second Schedule of MV Act (extracted in column 5 of the table above); and some follow the multiplier actually adopted in the Second Schedule while calculating the quantum of compensation (set out in column 6 of the table above). For example if the deceased is aged 38 years, the multiplier would be 12 as per Susamma Thomas, 14 as per Trilok Chandra, 15 as per Charlie, or 16 as per the multiplier given in column (2) of the Second schedule to the MV Act or 15 as per the multiplier actually adopted in the second Schedule to MV Act. Some Tribunals, as in this case, apply the multiplier of 22 by taking the balance years of service with reference to the retiring age. It is necessary to avoid this kind of inconsistency. We are concerned with cases falling under Section 166 and not under Section 163A of MV Act. In cases falling under Section 166 of the MV Act, Davies method is applicable.*

*21. We therefore hold that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.”*

13. Further, the Apex Court in ***Reshma Kumari & Ors. Vs. Madan Mohan & Anr. (2013) 9 SCC 65*** examined the basic concepts of the assessment of compensation on the basis of multiplier method, and affirmed the findings of ***Sarla Verma*** with regard to the selection of various factors for computing the compensation amount.

14. This Court in these appeals is concerned with the selection of multiplier. The above mentioned case laws pronounced by the Apex Court reiterate the fairness of multiplier system.

15. I note, in *Susamma Thomas*, the Apex Court, in principle, followed the selection of multiplier on the basis of age of the deceased or the age of the claimant, whichever is higher. However, subsequent to the introduction of Section 163A and the Second Schedule of the Act, the Apex Court in *Trilok Chandra*, introduced a structural change by increasing the numerical value of multiplier from '16'to'18', whereas it had been fixed at '16'as per *Susamma Thomas*,. Specifically, there was no variation in respect of fundamental premise of 'multiplier method' as held in *Susamma Thomas*. In *Trilok Chandra*, the apex court has taken the second schedule as a guiding factor.

16. In *Trilok Chandra*, the Apex Court has emphasized that the purchasing factor shall not exceed '18'. However, the rule enunciated in *Susamma Thomas* in respect of selection of multiplier has not been followed in principle; but explained the principle of multiplier on the basis of the Second Schedule appended to the M.V. Act, 1988 which indicates that the selection shall be based on the age of the victim.

17. Following the observations and findings in *Trilok Chandra*, the Apex Court in *Sarla Verma* has formulated the rule regarding the selection of multiplier as prescribed in column (4) of the table prepared by applying the cases of *Susamma Thomas*, *Trilok Chandra's* and *New India Assurance Co. Ltd. Vs. Charlie (2009) 10 SCC 720*.

18. The table regulates certain aspects: (1) the first column indicates the age of the deceased, (2) upto the age of '15'years, the multiplier has

not been mentioned, (3) the age group between 15 to 25, the corresponding multiplier has been fixed at 18, i.e., the maximum purchasing factor, whereas in **Trilok Chandra** the multiplier of '17' has been fixed for the age group between '20 to 25'.

19. However, in **Reshma Kumari**, the Apex Court laid down various guidelines in respect of selection of multiplier and, in principle, affirmed the methods stipulated in **Sarla Verma**. Significantly, in **Reshma Kumari**, the Apex court has held that the person falls below the age group of '15', irrespective of claim applications under Sections 163 A and 166 of M.V.Act, 1988, the multiplier of '15' will be made applicable. It is relevant to note that in the selection of multiplier for the age group of below '15', the apex court has not considered the aspect of the age of the claimants which has been considered as a deviation from the principle of **Susamma Thomas**.

20. I note, in **Reshma Kumari**, the Apex Court has not applied or adopted the concept of selection of multiplier as per **Susamma Thomas**, in turn; the multiplier has been selected on the basis of the age of deceased. The above legal proposition has been further affirmed by the Supreme Court in the case of **M.Mansoor vs. United India insurance co. Ltd., 2013(12) SCALE 324** held as under:

*15. The Tribunal adopted the multiplier of 17 and the High Court determined the multiplier as 12 on the basis of the age of the parents/claimants. This Court in the decision in **Amrit Bhanu Shali and Ors. v. National Insurance Company Limited and Ors. : (2012) 11 SCC 738** held as follows:*

*15. The selection of multiplier is based on the age of the deceased and not on the basis of the age of the dependent. There may be a number of*

*dependents of the deceased whose age may be different and, therefore, the age of the dependents has no nexus with the computation of compensation.*

*16. In the decision in **Sarla Verma case** (supra) this Court held that the multiplier to be used should be as mentioned in column (4) of the table of the said judgment which starts with an operative multiplier of 18. As the age of the deceased at the time of the death was 24 years, the multiplier of 18 ought to have been applied. The Tribunal taking into consideration the age of the deceased wrongly applied the multiplier of 17 and the High Court committed a serious error by bringing it down to the multiplier of 12.*

21. The maximum value of the multiplier is fixed at '18', which is fairly representing the purchasing capacity of a victim in a stable economy. In the ascertainment of purchasing capacity of the victim, the age of the claimant has no relevance because of the fact that it has no nexus with the assessment of the loss of dependency.

22. Moreover, subsequent to the introduction of Section 163A and the Second Schedule of the Act, the Apex Court in **Trilok Chandra**, introduced a structural change by increasing the numerical value of multiplier from '16'to'18', whereas it had been fixed at '16'as per **Susamma Thomas**. Specifically, there was no variation in respect of fundamental premise of 'multiplier method' as held in **Susamma Thomas**. In **Trilok Chandra**, the apex court has taken the second schedule as a guiding factor.

23. Significantly, the Apex Court in the case of **Reshma Kumari** and **M. Nag Pal** has followed the age of the victim as a factor for selecting the multiplier. Specifically, in the selection of multiplier for the age group up to '15' the Apex Court never considered the age of the claimants as a relevant factor. Therefore, this court finds no reason to

adopt a different formula for the victim who is above ‘15’ years of age, whereas the relevant factors have been adopted by the Apex Court such as (i) age of the deceased (ii) income of the deceased and (iii) number of dependents. The Apex Court, while formulating the relevant factors for the assessment of loss of dependency, the age of the claimants never considered as a factor. Finally, in the assessment of dependency, the courts / tribunals are computing the purchasing capacity of the deceased; not the claimants. Therefore, I am of the considered opinion that the age of the victim is the proper factor for selecting the correct multiplier.

24. In **MAC Appeal No. 152/2014** age of the deceased was 19 years on the date of the accident, i.e., 09.08.2013 and the learned Tribunal has applied the multiplier of 11 as per the age of his mother being dependent while calculating the loss of dependency.

25. In view of the above discussion and settled law, I am of the considered opinion that the learned Tribunal ought to have applied the multiplier of 18 instead of 11. Accordingly, the compensation amount comes as under:-

| <b>Sr. No.</b> | <b>Heads</b>                   | <b>Calculation as per MACT</b> | <b>Calculation as per this Court</b> |
|----------------|--------------------------------|--------------------------------|--------------------------------------|
| 1.             | Loss of dependency             | Rs.7,64,478/-                  | Rs.12,50,964/-                       |
| 2.             | Towards loss of love affection | Rs.1,00,000/-                  | Rs.1,00,000/-                        |
| 3.             | Towards loss of estate         | Rs. 10,000/-                   | Rs. 10,000/-                         |
| 4.             | Towards funeral expenses       | Rs. 25,000/-                   | Rs. 25,000/-                         |
|                | <b>Total</b>                   | <b>Rs.8,99,478/-</b>           | <b>Rs.13,85,964/-</b>                |

Resultantly, the compensation is assessed at Rs.13,85,964/-.

26. Hence, an amount of Rs. 4,86,486/- is enhanced (Rs. 13,85,964 – Rs.8,99,478).

27. The enhanced amount shall carry interest @ 9% per annum from the date of filing of the claim petition till realization of the amount.

28. The respondent No.3/Insurance Company is directed to deposit the enhanced amount with the Registrar General of this Court within a period of five weeks from today, failing which, appellants/claimants shall be entitled for penal interest @ 12% *per annum* on account of delayed payment.

29. On deposit, the Registrar General is directed to release the amount in favour of the appellants/claimants in terms of the impugned award dated 07.11.2013 passed by the learned Tribunal on taking necessary steps by them.

30. In view of the above, the appeal is allowed.

31. Now, I will take up the appeals bearing **MAC Appeal No. 232/2013**, **MAC Appeal No. 1190/2012** and **MAC Appeal No. 196/2013**, wherein the age of the deceased was 28 years, 22 years and 28 years on the date of the accidents, i.e., 27.04.2012, 06.11.2009 and 08.03.2009, and the learned Tribunal has applied the multiplier of 17, 18 and 17 respectively, as per the age of the deceased while calculating loss of dependency.

32. In view of the above discussion and settled law, I am of the considered opinion that the learned Tribunal rightly selected the

multiplier on the basis of the age of the deceased. Accordingly, the appeals are dismissed.

33. The Registry of this Court is directed to send the copies of this judgment to all the Tribunals.

**CM. No. 19233/2012 in MAC.APP. 1190/2012**

With the dismissal of the appeal itself, instant application has become *infructuous* and dismissed as such.

**SURESH KAIT, J.**

**MARCH 24, 2014**  
*jg/RS/sb*