

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

Date of decision: 14th January, 2015

+ **MAC.APP. 214/2013**

ORIENTAL INSURANCE COMPANY LTD. Appellant

Through: Mr. A.K. Soni, Adv. for
Mr. Pradeep Gaur, Adv.

versus

TIMAL & ORS. Respondents

Through: Mr. Dinesh Kumar, Adv. for R-1 &
R-2.
Mr. Kumar Sameer proxy counsel for
R-3.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

G. P. MITTAL, J. (ORAL)

1. The appeal is for reduction of compensation of Rs.5,38,560/- awarded by the Motor Accident Claims Tribunal (the Claims Tribunal) for the death of Sanjay, who died in a motor vehicular accident which occurred on 16.01.2008 at about 8:00 a.m.
2. The factum of negligence is not challenged by the Appellant Insurance Company. The same is otherwise sufficiently established from the testimony of PW-2 Arjun, who was an eye witness of the incident.
3. Twin contentions are raised on behalf of the Appellant. It is urged that the multiplier ought to have been taken as per the age of the mother of

the deceased and no addition towards future prospects ought to have been made as the deceased was working on fixed wages.

4. On the other hand, learned counsel for Respondents no.1 and 2 submits that the deceased was working as a *mistri*, marble fixer. Proprietor of M/s. Vijay Kumar was produced to prove the wages of the deceased but the Claims Tribunal declined to believe the same and awarded compensation on the basis of minimum wages. The learned counsel for Respondents no.1 and 2 urges that the multiplier of 18 was rightly taken based on the age of the deceased.

MULTIPLICANT

5. PW-1 Arjun testified that his uncle Sanjay was a skilled *mistri*/ marble fixer and was earning Rs.6500/- per month. This fact that the deceased Sanjay was working as a marble *mistri* was not disputed in cross-examination, although his earnings were disputed by giving a suggestion to Vijay owner of M/s. Vijay Kumar, Arya Nagar, Pahar Ganj testified that Sanjay was working as a marble fixer on daily wages. He was paid wages of Rs.220/- per day and he also proved his certificate Ex.PW-3/A. In cross-examination, the witness stated that at the time of accident, 6-7 persons were working under him. He admitted that he did not take the signatures of the deceased or other

employees on any receipt or voucher.

6. It may be noted that Vijay Kumar was having small business and was dealing in polishing work of tiles and stones. Since it was not disputed that deceased Sanjay was working as a marble fixer, I will accept his wages to be Rs.220/- per day or Rs.6500/- per month.
7. In *HDFC Ergo General Insurance Co Ltd. v. Smt Lalta Devi & Ors*, MAC.APP. 189/2014, decided on 12.01.2015, I had gone into the question whether increase of 30% or 50%, as the case may be, has to be given in the income of the persons earning fixed salary as future prospects. I have held that the judgment in *Reshma Kumari & Ors. v. Madan Mohan & Anr.* (2013) 9 SCC 65 shall be taken as a binding precedent. Paras 9 to 21 of the report in *Lalta Devi* are extracted hereunder:-

“9. The learned counsel for the Claimants has referred to a three Judge Bench decision of the Supreme Court in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54 to contend that the future prospects have to be added in all cases where a person is getting fixed wages or is a seasonal employee or is a student.

10. It is urged by the learned counsel for the Claimants that the law laid down in *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121 was extended in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54 to hold that future prospects ought to be extended in all cases.

11. On the other hand, the learned counsel for the Insurance Company refers to a three Judge Bench decision of the Supreme Court in *Reshma Kumari & Ors. v. Madan Mohan & Anr.*, (2013) 9 SCC 65 wherein while approving the ratio with regard to future prospects in *Sarla Verma (Smt.) & Ors. (supra)* and relying on *General Manager, Kerala State Road Transport Corporation, Trivandrum v. Susamma Thomas (Mrs.) and Ors.* (1994) 2 SCC 176; *Sarla Dixit v. Balwant Yadav*, (1996) 3 SCC 179 and *Abati Bezbaruah v. Dy. Director General, Geological Survey of India & Anr.*, 2003 (3) SCC 148, the Supreme Court held as under:-

“38. With regard to the addition to income for future prospects, in *Sarla Verma* [*Sarla Verma v. DTC*, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] , this Court has noted the earlier decisions in *Susamma Thomas* [*Kerala SRTC v. Susamma Thomas*, (1994) 2 SCC 176 : 1994 SCC (Cri) 335] , *Sarla Dixit*[(1996) 3 SCC 179] and *Abati Bezbaruah* [*Abati Bezbaruah v. Geological Survey of India*, (2003) 3 SCC 148 : 2003 SCC (Cri) 746] and in para 24 of the Report held as under: (*Sarla Verma* case [*Sarla Verma v. DTC*, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] , SCC p. 134)

“24. ... In view of the imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects, where the deceased had a permanent job and was below 40 years. (Where the annual income is in the taxable range, the words ‘actual salary’ should be read as ‘actual salary less tax’). The addition should be only 30% if the age of the deceased was 40 to 50 years. There should be no addition,

where the age of the deceased is more than 50 years. Though the evidence may indicate a different percentage of increase, it is necessary to standardise the addition to avoid different yardsticks being applied or different methods of calculation being adopted. Where the deceased was self-employed or was on a fixed salary (without provision for annual increments, etc.), the courts will usually take only the actual income at the time of death. A departure therefrom should be made only in rare and exceptional cases involving special circumstances.”

39. The standardization of addition to income for future prospects shall help in achieving certainty in arriving at appropriate compensation. We approve the method that an addition of 50% of actual salary be made to the actual salary income of the deceased towards future prospects where the deceased had a permanent job and was below 40 years and the addition should be only 30% if the age of the deceased was 40 to 50 years and no addition should be made where the age of the deceased is more than 50 years. Where the annual income is in the taxable range, the actual salary shall mean actual salary less tax. In the cases where the deceased was self-employed or was on a fixed salary without provision for annual increments, the actual income at the time of death without any addition to income for future prospects will be appropriate. A departure from the above principle can only be justified in extraordinary circumstances and very exceptional cases.”

12. The learned counsel for the Insurance Company relies upon a Constitutional Bench judgment of the

Supreme Court in Central Board of Dawoodi Bohra Community & Anr. v. State of Maharashtra & Anr., (2005) 2 SCC 673; Safiya Bee v. Mohd. Vajahath Hussain @ Fasi, (2011) 2 SCC 94; and Union of India & Ors. v. S.K. Kapoor, (2011) 4 SCC 589 to contend that in case of divergence of opinion in judgments of benches of co-equal strength, earlier judgment will be taken as a binding precedent.

13. It may be noted that in Reshma Kumari & Ors. v. Madan Mohan & Anr., (2013) 9 SCC 65; the three Judge Bench was dealing with a reference made by a two Judge Bench (S.B. Sinha and Cyriac Joseph, J.J.). The two Hon'ble Judges wanted an authoritative pronouncement from a Larger Bench on the question of applicability of the multiplier and whether the inflation was built in the multiplier. The three Judge Bench approved the two Judge Bench decision of the Supreme Court in Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121 with regard to the selection of multiplier. It further laid down that addition towards future prospects to the extent of 50% of the actual salary shall be made towards future prospects when the deceased had a permanent job and was below 40 years and addition of 30% should be made if the age of the deceased was between 40-50 years. No addition towards future prospects shall be made where the deceased was self-employed or was getting a fixed salary without any provision of annual increment.

14. Of course, three Judge Bench of the Supreme Court in its later judgment in Rajesh relying on Santosh Devi v. National Insurance Company Ltd. & Ors., 2012 (6) SCC 421 observed that there would be addition of 30% and 50%, depending upon the age of the deceased, towards future prospects even in the case of self-employed persons. It may, however, be noted that in Rajesh, the three Judge Bench decision in Reshma Kumari (supra) was not brought to the notice of their Lordships.

15. The divergence of opinion was noted by another three Judge Bench of the Supreme Court in Sanjay

Verma v. Haryana Roadways, (2014) 3 SCC 210. In paras 14 and 15, the Supreme Court observed as under:-

“14. Certain parallel developments will now have to be taken note of. In Reshma Kumari v. Madan Mohan [(2009) 13 SCC 422 : (2009) 5 SCC (Civ) 143 : (2010) 1 SCC (Cri) 1044] , a two-Judge Bench of this Court while considering the following questions took the view that the issue(s) needed resolution by a larger Bench: (SCC p. 425, para 10)

“(1) Whether the multiplier specified in the Second Schedule appended to the Act should be scrupulously applied in all the cases?

(2) Whether for determination of the multiplicand, the Act provides for any criterion, particularly as regards determination of future prospects?”

15. Answering the above reference a three-Judge Bench of this Court in Reshma Kumari v. Madan Mohan [(2013) 9 SCC 65 : (2013) 4 SCC (Civ) 191 : (2013) 3 SCC (Cri) 826] (SCC p. 88, para 36) reiterated the view taken in Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] to the effect that in respect of a person who was on a fixed salary without provision for annual increments or who was self-employed the actual income at the time of death should be taken into account for determining the loss of income unless there are extraordinary and exceptional circumstances. Though the expression “exceptional and extraordinary circumstances” is not capable of any precise definition, in Shakti Devi v. New India Insurance Co. Ltd. [(2010) 14 SCC 575 : (2012) 1 SCC (Civ) 766 : (2011) 3 SCC (Cri) 848] there is a practical application of the aforesaid principle. The near certainty of the regular employment of the deceased in a

government department following the retirement of his father was held to be a valid ground to compute the loss of income by taking into account the possible future earnings. The said loss of income, accordingly, was quantified at double the amount that the deceased was earning at the time of his death.”

16. Further, the divergence of opinion in *Reshma Kumari & Ors. v. Madan Mohan & Anr.*, (2013) 9 SCC 65 and *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54 was noticed by the Supreme Court in another latest judgment in *National Insurance Company Ltd. v. Pushpa & Ors.*, CC No.8058/2014, decided on 02.07.2014 and in concluding paragraph while making reference to the Larger Bench, the Supreme Court held as under:-

“Be it noted, though the decision in Reshma (supra) was rendered at earlier point of time, as is clear, the same has not been noticed in Rajesh (supra) and that is why divergent opinions have been expressed. We are of the considered opinion that as regards the manner of addition of income of future prospects there should be an authoritative pronouncement. Therefore, we think it appropriate to refer the matter to a larger Bench.”

17. Now, the question is which of the judgments ought to be followed awaiting answer to the reference made by the Supreme Court in *Pushpa & Ors.* (supra).

18. In *Central Board of Dawoodi Bohra Community & Anr. v. State of Maharashtra & Anr.*, (2005) 2 SCC 673 in para 12, the Supreme Court observed as under:-

“12. Having carefully considered the submissions made by the learned Senior Counsel for the parties and having examined the law laid down by the Constitution Benches in the abovesaid decisions, we would like to sum up the legal position in the following terms:

(1) The law laid down by this Court in a decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or coequal strength.

(2) [Ed.: Para 12(2) corrected vide Official Corrigendum No. F.3/Ed.B.J./21/2005 dated 3-3-2005.] A Bench of lesser quorum cannot disagree or dissent from the view of the law taken by a Bench of larger quorum. In case of doubt all that the Bench of lesser quorum can do is to invite the attention of the Chief Justice and request for the matter being placed for hearing before a Bench of larger quorum than the Bench whose decision has come up for consideration. It will be open only for a Bench of coequal strength to express an opinion doubting the correctness of the view taken by the earlier Bench of coequal strength, whereupon the matter may be placed for hearing before a Bench consisting of a quorum larger than the one which pronounced the decision laying down the law the correctness of which is doubted.

(3) [Ed.: Para 12(3) corrected vide Official Corrigendum No. F.3/Ed.B.J./7/2005 dated 17-1-2005.] The above rules are subject to two exceptions: (i) the abovesaid rules do not bind the discretion of the Chief Justice in whom vests the power of framing the roster and who can direct any particular matter to be placed for hearing before any particular Bench of any strength; and (ii) in spite of the rules laid down hereinabove, if the matter has already come up for hearing before a Bench of larger quorum and that Bench itself feels that the view of the law taken by a Bench of lesser quorum, which view is in doubt, needs correction or reconsideration then by way of exception (and not as a rule) and for reasons given by it, it may proceed to hear the case and examine the correctness of the previous decision in question

dispensing with the need of a specific reference or the order of the Chief Justice constituting the Bench and such listing. Such was the situation in Raghubir Singh [(1989) 2 SCC 754] and Hansoli Devi [(2002) 7 SCC 273].”

19. Similarly, in *Safiya Bee v. Mohd. Vajahath Hussain @ Fasi*, (2011) 2 SCC 94 in para 27, the Supreme Court observed as under:-

“27. However, even assuming that the decision in WP No. 35561 of 1998 did not operate as res judicata, we are constrained to observe that even if the learned Judges who decided WP No. 304 of 2001 did not agree with the view taken by a coordinate Bench of equal strength in the earlier WP No. 35561 of 1998 regarding the interpretation of Section 2(c) of the Act and its application to the petition schedule property, judicial discipline and practice required them to refer the issue to a larger Bench. The learned Judges were not right in overruling the statement of the law by a coordinate Bench of equal strength. It is an accepted rule or principle that the statement of the law by a Bench is considered binding on a Bench of the same or lesser number of Judges. In case of doubt or disagreement about the decision of the earlier Bench, the well-accepted and desirable practice is that the later Bench would refer the case to a larger Bench.”

20. In *Union of India & Ors. v. S.K. Kapoor*, (2011) 4 SCC 589 while holding that the decision of the Co-ordinate Bench is binding on the subsequent Bench of equal strength, held that the Bench of Co-ordinate strength can only make a reference to a larger Bench. In para 9 of the report, the Supreme Court held as under:-

“9. It may be noted that the decision in S.N. Narula case [(2011) 4 SCC 591] was prior to the decision in T.V. Patel case [(2007) 4 SCC 785 : (2007) 2 SCC (L&S) 98] . It is well settled that if a

subsequent coordinate Bench of equal strength wants to take a different view, it can only refer the matter to a larger Bench, otherwise the prior decision of a coordinate Bench is binding on the subsequent Bench of equal strength. Since, the decision in S.N. Narula case [(2011) 4 SCC 591] was not noticed in T.V. Patel case [(2007) 4 SCC 785 : (2007) 2 SCC (L&S) 98], the latter decision is a judgment per incuriam. The decision in S.N. Narula case [(2011) 4 SCC 591] was binding on the subsequent Bench of equal strength and hence, it could not take a contrary view, as is settled by a series of judgments of this Court.”

21. *This Court in New India Assurance Co. Ltd. v. Harpal Singh & Ors., MAC APP.138/2011, decided on 06.09.2013, went into this question and held that in view of the report in S.K. Kapoor (supra), the three Judge Bench decision in Reshma Kumari & Ors. (surpa) shall be taken as a binding precedent.*

8. In view of this, it is clear that Respondents no.1 and 2 are not entitled to any increase towards future prospects.

MULTIPLIER

9. The question of multiplier *i.e.* whether it has to be as per the age of the Claimant or as per the age of the deceased was also gone into in *Lalta Devi (supra)* and relying upon the judgments in *U.P. SRTC v. Trilok Chandara, (1996) 4 SCC 362; General Manager, Kerala State Road Transport Corporation, Trivandrum v. Susamma Thomas (Mrs.) and Ors. (1994) 2 SCC 176; New India Assurance Company Ltd. v. Shanti Pathak (Smt.) & Ors., (2007) 10 SCC 1; Sarla Verma (Smt.) & Ors. v.*

Delhi Transport Corporation & Anr., (2009) 6 SCC 121 and *National Insurance Company Ltd. v. Shyam Singh & Ors.*, (2011) 7 SCC 65, I had held that the multiplier will be as per the age of the deceased or the Claimant whichever is higher. Paras 23 to 25 of the report in *Lalta Devi (supra)* are extracted hereunder:-

“23. It is urged by the learned counsel for the Claimants that multiplier has to be as per the age of the deceased and not as per the age of the Claimants. In support of his contention, the learned counsel for the Claimants places reliance on *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121 and *Reshma Kumari & Ors. v. Madan Mohan & Anr.*, (2013) 9 SCC 65; wherein it was held that the multiplier has to be taken as per the age of the deceased.

24. This issue was gone into detail by this Court wherein the history of awarding reasonable compensation was gone into. This Court referred to a three Judge Bench decision in *U.P. SRTC v. Trilok Chandara*, (1996) 4 SCC 362; *General Manager, Kerala State Road Transport Corporation, Trivandrum v. Susamma Thomas (Mrs.) and Ors.* (1994) 2 SCC 176; another three Judge Bench decision of the Supreme Court in *New India Assurance Company Ltd. v. Shanti Pathak (Smt.) & Ors.*, (2007) 10 SCC 1, *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121 and *National Insurance Company Ltd. v. Shyam Singh & Ors.*, (2011) 7 SCC 65, and in paras 4 to 8 observed as under:-

“4. As far as the selection of multiplier is concerned, the law is settled that the choice of multiplier is determined by the age of the deceased or that of the claimants whichever is higher. There is a three Judges Bench judgment of the Supreme Court in *U.P. State Road Transport Corporation & Ors. v.*

Trilok Chandra & Ors., (1996) 4 SCC 362, where the Supreme Court relied on G.M., Kerala SRTC v. Susamma Thomas, (1994) 2 SCC 176 and reiterated that the choice of the multiplier is determined by the age of the deceased or that of the claimants whichever is more. Para 12 of the report is extracted hereunder:-

“12. For concluding the analysis it is necessary now to refer to the judgment of this Court in the case of General Manager, Kerala State Road Transport, v. Susamma Thomas: (1994) 2 SCC 176. In that case this Court culled out the basic principles governing the assessment of compensation emerging from the legal authorities cited above and reiterated that the multiplier method is the sound method of assessing compensation. The Court observed:

“The multiplier method involves the ascertainment of the loss of dependency or the multiplicand having regard to the circumstances of the case and capitalizing the multiplicand by an appropriate multiplier. The choice of the multiplier is determined by the age of the deceased (or that of the claimants, whichever is higher) and by the calculation as to what capital sum, if invested at a rate of interest appropriate to a stable economy, would yield the multiplicand by way of annual interest. In ascertaining this, regard should also be had to the fact that ultimately the capital sum should also be consumed-up

over the period for which the dependency is expected to last.

The principle was explained and illustrated by a mathematical example:

“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 dependents, whichever is higher) goes up.”

5. There is another three Judges' decision of the Supreme Court in New India Assurance Company Ltd. v. Shanti Pathak (Smt.) & Ors., (2007) 10 SCC 1, where in the case of the death of a bachelor, who was aged only 25 years, the multiplier of 5 was applied according to the age

of the mother of the deceased, who was about 65 years at the time of the accident. Para 6 of the report is extracted hereunder:-

“6. Considering the income that was taken, the foundation for working out the compensation cannot be faulted. The monthly contribution was fixed at Rs.3,500/-. In the normal course we would have remitted the matter to the High Court for consideration on the materials placed before it. But considering the fact that the matter is pending since long, it would be appropriate to take the multiplier of 5 considering the fact that the mother of the deceased is about 65 years at the time of the accident and age of the father is more than 65 years. Taking into account the monthly contribution at Rs.3,500/- as held by the Tribunal and the High Court, the entitlement of the claim would be Rs.2,10,000/-. The same shall bear interest @ 7.5% p.a. from the date of the application for compensation. Payment already made shall be adjusted from the amount due.”

6. Learned counsel for the Appellant referred to Sarla Verma (supra) in support of the proposition that age of the deceased is to be taken into consideration for selection of the multiplier. As an example the multiplier taken in various cases such as in Susamma Thomas (supra), U.P. SRTC v. Trilok Chandara, (1996) 4 SCC 362 as clarified in New India Assurance Co. Ltd. v. Charlie, (2005) 10 SCC 720 and the multiplier as mentioned in Second Schedule to the Motor Vehicles Act were compared and it was held that the multiplier as per Column

No.4 in the said table was appropriate for application. *Sarla Verma (supra)* related to the death of one *Rajinder Prakash* who had left behind his widow, three minor children apart from his parents and the grandfather. Obviously, the age of the deceased was taken into consideration for the purpose of selection of the multiplier as the deceased left behind a widow younger to him, apart from three minor children. It was not laid down as a proposition of law that irrespective of the age of the claimants, the age of the deceased is to be taken into consideration for selection of the multiplier for calculation of the loss of dependency. It is true that in *Mohd. Ameeruddin (supra 2)* and *P.S. Somanathan (supra 3)* and *National Insurance Company Ltd. v. Azad Singh (supra 5)*, the Hon'ble Supreme Court applied the multiplier according to the age of the deceased, yet in view of *Trilok Chandra (supra)* and *Shanti Pathak (supra)* decided by the three Judges of the Supreme Court, the judgment in *Mohd. Ameeruddin (supra 2)*, *P.S. Somanathan (supra 3)* and *Azad Singh (supra 5)* cannot be taken as a precedent for selection of the multiplier.

7. In the latest judgment of the Supreme Court in *National Insurance Company Ltd. v. Shyam Singh & Ors.*, (2011) 7 SCC 65, decided on 04.07.2011, the Supreme Court referred to *Ramesh Singh & Anr. v. Satbir Singh & Anr.*, (2008) 2 SCC 667 and held that the multiplier as per the age of the deceased or the claimant whichever is higher would be applicable. Para 9 and 10 of the report are apposite:-

“9. This Court in the case of Ramesh Singh & Anr. v. Satbir Singh & Anr., (2008) 2 SCC 667, after referring to the earlier judgments of this Court, in detail, dealt with the law with regard to determination of the multiplier in a similar situation as in the present case. The said findings of this Court are as under:-

“6. We have given anxious consideration to these contentions and are of the opinion that the same are devoid of any merits. Considering the law laid down in New India Assurance Co. Ltd. v. Charlie, AIR 2005 SC 2157, it is clear that the choice of multiplier is determined by the age of the deceased or claimants whichever is higher. Admittedly, the age of the father was 55 years. The question of mother's age never cropped up because that was not the contention raised even before the Trial Court or before us. Taking the age to be 55 years, in our opinion, the courts below have not committed any illegality in applying the multiplier of 8 since the father was running 56th year of his life.”

10. In our view, the dictum laid down in Ramesh Singh (supra) is applicable to the present case on all fours.

Accordingly, we hold that the Tribunal had rightfully applied the multiplier of 8 by taking the average of the parents of the deceased who were 55 and 56 years.”

8. Similarly in Manam Saraswathi Sampooran Kalavathi & Ors., v. The Manager, APSRTC, Tadepalligudem A.P. & Anr., (2010) 5 SCC 785, decided on 26.03.2010, the multiplier of

13 was applied in case of death of a young bachelor where the mother was 47 years of age.”

25. There is no manner of doubt that the appropriate multiplier while awarding compensation for death of an unmarried boy, the multiplier will be selected on the basis of age of the mother of the deceased.”

10. There is voter identity card issued by the Election Commission of India on record according to which Respondent no.2 Smt. Afti Devi (mother of the deceased) was aged about 49 years on 01.01.1995. Thus, her age on the date of accident was about 62 years and the appropriate multiplier would be 7. The loss of dependency thus, comes to Rs.2,73,000/- (6500/- x 12 x 1/2 x 7).
11. The Claims Tribunal awarded a compensation of Rs.25,000/- towards loss of love and affection. In view of the judgment in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54, the compensation awarded towards loss of love and affection is increased to Rs.1,00,000/-. The compensation towards funeral expenses is also increased to Rs.25,000/-.
12. The revised compensation is tabulated as under:-

Sl. No.	Compensation under various heads	Awarded by the Claims Tribunal	Awarded by this Court
1.	Loss of Dependency	4,93,560/-	2,73,000/-
2.	Loss of Love and Affection	25,000/-	1,00,000/-
3.	Funeral Expenses	10,000/-	25,000/-
4.	Loss of Estate	10,000/-	10,000/-
	Total	Rs.5,38,560/-	Rs.4,08,000/-

13. The overall compensation thus comes to Rs.4,08,000/-. The overall compensation is reduced from Rs.5,38,560/- to Rs.4,08,000/-.
14. The excess compensation of Rs.1,30,560/- along with proportionate interest shall be refunded to the Appellant Insurance Company.
15. The compensation awarded shall be released/held in fixed deposit in favour of Respondents no.1 and 2 in the proportion as directed by the Claims Tribunal.
16. The statutory amount of ₹25,000/- shall also be refunded to the Appellant Insurance Company.
17. The appeal is allowed in above terms.
18. Pending applications also stand disposed of.

(G.P. MITTAL)
JUDGE

JANUARY 14, 2015/vk