

IN THE HIGH COURT OF BOMBAY AT GOA**FIRST APPEAL NO. 65 of 2016****with****Cross Objection No.6 of 2016****AND****FIRST APPEAL NO. 66 OF 2016****with****Cross Objection No.5 of 2016****FIRST APPEAL NO. 65 of 2016**

1. National Insurance Company Ltd.,
Waman Smruthi, Near Lakshmi
Narayan Temple,,
Mapusa, Goa 403 507.

..... Appellant

V e r s u s

1. Shri Vijay Vithoba Adel,
Son of Vithobha alias
Vithoba Adel,
Aged 29 years, bachelor,
2. Shri Rohan Vithoba (Naik), Adel
Son of late Vithobha alias
Vithoba (Naik), Adel,
Aged 26 years, bachelor,

(amendment carried as per order
dated 19/1/2017)

3. Shri Rajesh Vithoba Adel,
Son of late Vithoba alias
Vithoba Adel,
Aged 31 years, married,
Represented herein by his
Attorney Smt. Purva Rajesh
Adel, alias Sangita Somnath
Naik constituted under

Power of attorney under
Reg. No.82/96 dated
30.5.2008 before Notary,
Shri Ganesh Kudchadkar,
Quepem Goa and his wife;

4. Smt. Purva Rajesh Adel,
Alias Sangita Somnath Naik,
Aged 30 years, married,
housewife, all above resident
of house no.15, Bansal Maad,
(Maad), Cacora, Goa
5. Smt. Sonali Sanjay Naik,
Alias Sonali Vithoba Adel,
Daughter of late Vithoba
Alais Vithoba Adel,
Aged 32 years, married,
ad her husband.
6. Shri Sanjay Shrikant Naik,
Son of Shrikant Naik,
Aged 37 years, married,
Both above permanent
Resident of Bebquegal,
Curchorem Goa and temporary
Resident of Flat No.S/1,
Careamoddi, Pontemol,
Curchorem, Goa.
7. Shri Sameer alias Sanjay Naik,
Major in age,
Driver of vehicle bearing
Registration number GA-01-R-5673, L
Resident of flat no.S/1,
Second floor, Josida Manzil,
Carl Hills, Sanvordem, Goa.
8. Shri Chandrakant Uttam Naik,
Son of Uttam Naik,
Major in age,
Owner of vehicle bearing

Registration number GA-01-R-5673,
Resident of House No.205/1,
Per Seraulim, Colva,
Salcete, Goa (since deceased)

- 8 a) Smt. Sumitra Chandrakant Naik,
Widow of Chandrakant Naik,
Major in age, housewife,
- 8 b) Miss Divya Chandrakant Naik,
Daughter of Chandrakant Naik,
Aged 20 years, Spinster.
- 8 c) Miss Diksha Chandrakant Naik,
Daughter of Chandrakant Naik,
Aged 17 years, minor.
- 8 d) Miss Dipashri Chandrakant Naik,
Daughter of Chandrakant Naik,
aged 14 years, minor.
- 8 e) Master Trimbakesh Chandrakant
Naik, son of Chandrakant Naik,
Aged 12 years, minor,
- 8 f) Master Mayuresh Chandrakant Naik,
Son of Chandrakant Naik,
Aged 12 years, minor,
The legal heirs at Sr. no.2 c to 2 f
are minors represented by their
Mother (natural Guardian)
Smt. Sumitra Chandrakant Naik,
All above residents of House
No.205/1, Per Seraulim, Colva,
Salcete, Goa.
- 9. Shri Vishuprashant S. Tar,
Son of Shrikrishna Tar,
Major in age, insured and owner
of vehicle bearing registration
Number GA-01-R-567
Resident of Opp. Mapusa,

Judicial Court, Altinho,
Mapusa, Goa.

..... Respondents

Shri U. R. Timble, Advocate with Advocate Y. Mandrekar for the Appellants.

Shri S. S. Kakodkar, Advocate for the Respondents no.1 to 6.

Shri J. J. Mulgaonkar, Advocate for Respondents no.8a to 8f.

**WITH
CROSS OBJECTION NO. 6 OF 2016**

1. Shri Vijay Vithoba Adel,
Son of Vithoba alias Vitoba Adel,
aged 29 years, bachelor.
2. Shri Rohan Vithoba (Naik) Adel
Son of late Vithoba alias Vitoba (Naik) Adel
aged 26 years, bachelor.

(amendment carried as per order dated
27.1.2017)

3. Shri Rajesh Vithoba Adel,
Son of late Vithoba alais Vitooba Adel,
aged 31 years, married,
represented herein by his
Attorney Smt. Purva Rajesh Adel,
alias Sangita Somnath Naik
constituted under Power of attorney
under Reg. No.82/96 dated 30.5.2008
before Notary Shri Ganesh Kudchadar,
Quepem Goa
and his wife.
4. Smt. Purva Rajesh Adel,
Alias Sangita Somnath Naik,
Aged 30 years, married, housewife,
All above resident of house No.15,
Bansal Maad, (Maad) Cacora Goa.

5. Smt. Sonali Sanjay Naik,
 Alias Sonali Vitoba Adel,
 Daughter of late Vithoba alias
 Vitoba Adel,
 Aged 32 years, married,
 And her husband.

6. Shri Sanjay Srikant Naik,
 Son of Shrikant Naik,
 Aged 37 years, married,
 Both above resident of Bebquegal,
 Curchorem Goa and temporary
 Residents of Flat No.S/1, Careamoddi,
 Pontemol, Curchorem Goa.

..... Applicant/Cross
 Objectors
 (Respondents no.1 to 6
 to the appeal)

V e r s u s

1. National Insurance Co. Ltd.
 Waman Smruti, near Lakshmi Narayan Temple,
 Mapusa Goa 430507,
 through Divisional Manager
 Mr. Surat Saha

(appellant to the Appeal)

2. Shri Sameer alias Sanjay Naik,
 Major in age,
 Driver of vehicle bearing
 Registration number GA-01-R-5673, L
 Resident of flat no.S/1,
 Second floor, Josida Manzil,
 Carl Hills, Sanvordem, Goa.

(respondent no.7 to the appeal)

3. Shri Chandrakant Uttam Naik,
 Son of Uttam Naik,
 Major in age, owner of vehicle bearing
 Registration number GA-01-R-5673,
 Resident of House No.205/1, Per Seraulim,
 Colva, Salcete, Goa. (since deceased)

3 a) Smt. Sumitra Chandrakant Naik,

Widow of Chandrakant Naik,
Major in age, housewife.

3 b) Miss Divya Chandrakant Naik,
Daughter of Chandrakant Naik,
Aged 20 years, spinster,

3 c) Miss Diksha Chandrakant Naik,
Daughter of Chandrakant Naik,
Aged 17 years, minor.

3 d) Miss Dipashri Chandrakant Naik,
Aged 14 years, minor

3 e) Master Trimbakesh Chandrakant Naik,
Son of Chandrakant Naik,
Aged 12 years, minor

3 (f) Master Mayuresh Chandrakant Naik,
Son of Chandrakant Naik,
Aged 12 years, minor,
The legal heirs at Sr. No. 2c to 2f are minors
Represented by their mother (Natural Guardian),
Smt. Sumitra Chandrakant Naik,
All above resident of House No.205/1,
Per Seraulim, Colva, Salcete, Goa.

... (Respondents No. 8 to 8f
to the appeal)

4. Shri Vishuprashant S. Tar,
Son of Shrikrishna Tar,
Major in age, insured and owner of
Vehicle bearing number GA-01-R-5673,
Resident of Opp. Mapusa Judicial Court,
Altinho, Mapusa Goa.

... (Respondent no.9 to the
appeal)

Shri S. S. Kakodkar, Advocate for the Applicant.

Shri U. R. Timble for the Respondents.

FIRST APPEAL NO. 66 OF 2016

1. National Insurance Co. Ltd.,
Waman Smruti,
Near Lakshmi Narayan Temple,
Mapusa, Goa 403 507. Appellant.

V e r s u s

1. Shri Vijay Vithoba Adel,
Son of Vithoba alias Vithoba Adel,
Aged 29 years, bachelor,
2. Shri Rohan Vithoba (Naik) Adel
Son of late Vithoba alias Vitoba (Naik) Adel
aged 26 years, bachelor.

(amendment carried as per order dated
27.1.2017)

3. Shri Rajesh Vithoba Adel,
Son of late Vithoba alias Vitoba Adel,
aged 31 years, married,
Represented herein by his
Attorney Smt. Purva Rajesh Adel,
alias Sangita Somnath
Naik constituted under
Power of attorney under
Reg. No.82/96 dated
30.5.2008 before Notary
Shri Ganesh Kudchadkar,
Quepem Goa and his wife.
4. Smt. Purva Rajesh Adel,
Alias Sangita Somnath Naik,
Aged 30 years, married, housewife,
All above resident of house No.15,
Bansal Maad, (Maad) Cacora Goa.
5. Smt. Sonali Sanjay Naik,

Alias Sonali Vitoba Adel,
Daughter of late Vithoba alias
Vitoba Adel,
Aged 32 years, married,
And her husband.

6. Shri Sanjay Shrikant Naik,
Son of Shrikant Naik,
Aged 37 years, married,
Both above permanent
Resident of Bebquegal,
Curchorem Goa and temporary
Residents of Flat No.S/1, Careamoddi,
Pontemol, Curchorem Goa.
7. Shri Sameer alias Sanjay Naik,
Major in age,
Driver of vehicle bearing
Registration number GA-01-R-5673, L
Resident of flat no.S/1,
Second floor, Josida Manzil,
Carl Hills, Sanvordem, Goa.
8. Shri Chandrakant Uttam Naik,
Son of Uttam Naik,
Major in age,
Owner of vehicle bearing
Registration number GA-01-R-5673,
Resident of House No.205/1,
Per Seraulim, Colva,
Salcete, Goa (Since deceased)
- 8 a) Smt. Sumitra Chandrakant Naik,
Widow of Chandrakant Naik,
Major in age, housewife,
- 8 b) Miss Divya Chandrakant Naik,
Daughter of Chandrakant Naik,
Aged 20 years, Spinster.
- 8 c) Miss Diksha Chandrakant Naik,
Daughter of Chandrakant Naik,

Aged 17 years, minor.

8 d) Miss Dipashri Chandrakant Naik,
Daughter of Chandrakant Naik,
aged 14 years, minor.

8 e) Master Trimbakesh Chandrakant
Naik, son of Chandrakant Naik,
Aged 12 years, minor,

8 f) Master Mayuresh Chandrakant Naik,
Son of Chandrakant Naik,
Aged 12 years, minor,
The legal heirs at Sr. no.2 c to 2 f
are minors represented by their
Mother (natural Guardian)
Smt. Sumitra Chandrakant Naik,
All above residents of House
No.205/1, Per Seraulim, Colva,
Salcete, Goa.

9. Shri Vishuprashant S. Tar,
Son of Shrikrishna Tar,
Major in age, insured and owner
of vehicle bearing registration
Number GA-01-R-567
Resident of Opp. Mapusa,
Judicial Court, Altinho,
Mapusa, Goa.

..... Respondents

Shri U. R. Timble, Advocate for the Appellant.

Shri S. S. Kakodkar, Advocate for Respondents no.1 to 6.

Shri J. J. Mulgaonkar, Advocate for Respondents no.8(a) to 8(f).

**WITH
CROSS OBJECTION NO.5 OF 2016.**

1. Shri Vijay Vithoba Adel,
Son of Vithoba alias Vitoba Adel,
aged 29 years, bachelor.
2. Shri Rohan Vithoba (Naik) Adel
Son of late Vithoba alias Vitoba (Naik) Adel

aged 26 years, bachelor.

(amendment carried as per order dated
19.1.2017)

3. Shri Rajesh Vithoba Adel,
Son of late Vithoba alias Vitoba Adel,
aged 31 years, married,
represented herein by his
Attorney Smt. Purva Rajesh Adel,
alias Sangita Somnath Naik
constituted under Power of attorney
under Reg. No.82/96 dated 30.5.2008
before Notary Shri Ganesh Kudchadar,
Quepem Goa and his wife.
4. Smt. Purva Rajesh Adel,
Alias Sangita Somnath Naik,
Aged 30 years, married, housewife,
All above resident of house No.15,
Bansai Maad, (Maad) Cacora Goa.
5. Smt. Sonali Sanjay Naik,
Alias Sonali Vitoba Adel,
Daughter of late Vithoba alias
Vitoba Adel,
Aged 32 years, married,
And her husband.
6. Shri Sanjay Shrikant Naik,
Son of Shrikant Naik,
Aged 37 years, married,
Both above resident of Bebquegal,
Curchorem Goa and temporary
Residents of Flat No.S/1, Careamoddi,
Pontemol, Curchorem Goa.

..... Applicant/Cross
Objectors
(Respondents no.1 to 6
to the appeal)

V e r s u s

1. National Insurance Co. Ltd.
Waman Smruti, near Lakshmi Narayan Temple,
Mapusa Goa 430507,
through Divisional Manager
Mr. Surat Saha (appellant to the Appeal)
2. Shri Sameer alias Sanjay Naik,
Major in age,
Driver of vehicle bearing
Registration number GA-01-R-5673, L
Resident of flat no.S/1,
Second floor, Josida Manzil,
Carl Hills, Sanvordem, Goa. (respondent no.7 to the appeal)
3. Shri Chandrakant Uttam Naik,
Son of Uttam Naik,
Major in age, owner of vehicle bearing
Registration number GA-01-R-5673,
Resident of House No.205/1, Per Seraulim,
Colva, Salcete, Goa. (since deceased)
- 3 a) Smt. Sumitra Chandrakant Naik,
Widow of Chandrakant Naik,
Major in age, housewife.
- 3 b) Miss Divya Chandrakant Naik,
Daughter of Chandrakant Naik,
Aged 20 years, spinster,
- 3 c) Miss Diksha Chandrakant Naik,
Daughter of Chandrakant Naik,
Aged 17 years, minor.
- 3 d) Miss Dipashri Chandrakant Naik,
Aged 14 years, minor
- 3 e) Master Trimbakesh Chandrakant Naik,
Son of Chandrakant Naik,
Aged 12 years, minor
- 3 (f) Master Mayuresh Chandrakant Naik,
Son of Chandrakant Naik,

Aged 12 years, minor,
 The legal heirs at Sr. No. 2c to 2f are minors
 Represented by their mother (Natural Guardian),
 Smt. Sumitra Chandrakant Naik,
 All above resident of House No.205/1,
 Per Seraulim, Colva, Salcete, Goa.

... (Respondents No. 8 to 8f
 to the appeal)

4. Shri Vishuprashant S. Tar,
 Son of Shrikant Tar,
 Major in age, insured and owner of
 Vehicle bearing number GA-01-R-5673,
 Resident of Opp. Mapusa Judicial Court,
 Altinho, Mapusa Goa.

... (Respondent no.9 to the
 appeal)

Shri S. S.Kakodkar, Advocate for the Appellants.

Shri U. R. Timble, Advocate for the Respondent no.1.

CORAM: C. V. BHADANG, J.

Reserved on : 10/9/2018

Pronounced on : 12/9/2018.

JUDGMENT:

Both these appeals along with cross objections involve claims for compensation arising out of the same accident, as such they are being decided by this common judgment.

2. On 3/12/2006, Vithobha Adel and his wife Vaishali alias Surekha Adel, along with their family members were returning by a Bolero Jeep no.Ga-01-R-5673 from Dharmashthal- Mangalore to Goa. The jeep was driven by one

Sameer alias Sanjay Naik. When the jeep reached at Belase- Ankola it dashed the border stones of the road and then rammed into a tree causing severe injuries to Vithoba as well as his wife Vaishali. While Vithoba succumbed to the injuries on 16/2/2007 while undergoing treatment, Vaishali died on 5/12/2006.

3. The original claimants being three sons, a daughter-in-law as well as a daughter and a son in-law of the deceased filed two separate claim petitions before the Motor Accident Claims Tribunal at Margao. Claim petition no.12/2009 was filed seeking a compensation of Rs.4,65,000/- (inclusive of no fault liability) in respect of the death of Vaishali, while Claim petition no.10/2009 was filed seeking a compensation of Rs.9,65,000/- (inclusive of no fault liability) in respect of the death of Vithoba. It appears that the offending jeep was previously owned by Vishnu Prasad the respondent no.3 before the Tribunal and it was purchased by Mr. Chandrakant U. Naik (since deceased), who was the respondent no.2 before the Tribunal. The respondent no.4, insurance company had issued a insurance policy covering the risk arising out of the use of the said jeep, which was effective from 10/2/2006 to 9/2/2007. Indisputably, the policy was endorsed in the name of Chandrakant Naik by way of a transfer w.e.f 11/12/2006 to 9/2/2007. There is no dispute on these aspects.

4. Both the petitions were contested by the respondents no.2, 3 and 4. The parties led oral and documentary evidence. The learned tribunal by an award dated 20/10/2014 granted a compensation of Rs. 4,07,500/- along with interest at the rate of 9% p.a. from the date of the petition till realization in respect of the death of Vaishali. By a separate judgment of the even date the tribunal granted a compensation of Rs.7,02,200/- in respect of the death of Vithobha along with interest at the rate of 9% p.a. from the date of the petition till realization.

5. First Appeal no.65/2016 is filed by the Insurer challenging the award in Claims Petition no.12/2009 in which there is a Cross objection no.6/2016 filed by the original claimants for enhancement. Similarly First Appeal No.66/2006 is filed by the Insurer challenging the award in Claims Petition No.10/2009 in which the original claimants have sought enhancement by filing Cross Objection no.5/2016.

6. I have heard the learned counsel for the appellant as well as the Cross Objectors. Perused record.

7. Shri Timble, the learned counsel for the appellant, Insurance company

although has raised contentions challenging the finding as to negligence and breach of the policy condition, the principal ground of challenge is about the deduction to be made towards personal and living expenses of the deceased. According to the learned counsel for the appellant the tribunal is also in error in making addition towards the future prospects which are on a higher side. Thus principally the challenge is on the point of quantum. It is submitted that the additions made in so far as the loss of estate, funeral expenses and loss of consortium are not in accordance with the decision of the Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi AIR 2017 SC 5157.**

8. On the contrary it is submitted by Shri Kakodkar, the learned counsel appearing for the cross objectors that the Tribunal was not justified in making deduction of 50% towards the personal and living expenses on the ground that the claimants were not dependents on the deceased. It is submitted that the deduction towards personal and living expenses is not in accordance with the decision of the Supreme Court in the case of **Sarla Verma (smt.) and others vs. Delhi Transport Corporation and another (2009) 6 SCC 121..** and the decision in the case of **Pranay Sethi (Supra)**. Except this, there are no other contentions raised.

9. I have carefully considered the circumstances and the submissions made. There is no other vehicle involved in the accident. It appears that while returning to Goa from Dharmashtal Mangalore when the jeep had reached Belase Ankola, the driver lost control as a result of which the vehicle initially hit the border stones of the road and then a tree. The tribunal after considering the evidence of AW.1 Vijay Adel, AW.2, Shri Suresh Naik, and AW.3, Shri Ramdas Naik were the occupants of the jeep and eye witnesses to the accident, has rightly come to the conclusion that the accident occurred solely due to the rash and negligent driving of the driver Mr. Sameer Naik. The tribunal while coming to the said conclusion has also referred to the evidence of AW.5 Pritesh Naik, P.S.I attached to Ankola Police Station and the spot panchanama, along with the sketch. Having regard to the fact that the negligence in such a case has to be established on the touchstone of principle of preponderance of probability and not beyond reasonable doubt, as in a criminal case, has rightly come to the conclusion about the rash and negligent driving of the driver being the sole cause for the accident.

10. Even so far as the breach of policy conditions is concerned, the tribunal has found that the driver had a valid and effective licence which was produced at Exhibit 48 and as such, the contention on behalf of the the appellant that there was a breach of policy condition on account of the driver

of the vehicle not holding a valid and effective driving licence cannot be accepted. The evidence of AW.1 or that of the Investigation Officer was not even challenged on the ground of the driver not holding a valid driving licence. Thus the contention in my considered view about breach of policy conditions also cannot be accepted.

11. This takes me to the question of quantum on which principally the learned counsel for the parties have addressed the Court.

12. **F.A. No.65/2016 with Cross Objection no.6/2016.**

The deceased Vaishali was 46 years of age on the date of the accident and was a business woman earning Rs.4000/- per month. She owned two trucks bearing no.GA-02-T 7944 and GA-02-T 7429. On behalf of the claimants a vehicle inspector was examined as AW.6 who had stated about the truck bearing no. GA-02-T 7944 having been transferred in the name of the deceased Vaishali on 13/12/1999. The tribunal has therefore reckoned the monthly income of the deceased at Rs.4000/- per month about which there is no serious dispute. The monthly income as reckoned cannot be said to be excessive or on a higher side. Thus the annual income of the deceased would be Rs.48,000/-. As per the decision in the case of **Pranay Sethi (supra)**, in respect of self employed person there has to be 25% addition to the income

towards future prospects when the deceased was between the age of 40 to 50 years as in the present case. Thus the addition would be Rs.12,000/- p.a. The total income would be Rs.60,000/- p.a.

13. Now comes the issue of the deduction towards personal and living expenses. It has come in the evidence that deceased Vaishali was living with her husband and three sons, whereas the daughter of the deceased (claimant no.5) was married. There is no evidence to show that any of the claimants/cross objectors were dependent on the income of the deceased. The tribunal had noticed that, in his evidence AW.1, did not even claim that they were dependents on the deceased. AW.1 claimed that he is looking after the transport business of his father and the original claimant no.2 was working abroad. The tribunal has found that there was no evidence to suggest that the claimants were dependent on the income of the deceased and therefore has made deduction of 50% towards personal and living expenses. According to the cross objectors the deduction has to be to the extent of $\frac{1}{4}$ th i.e. 25%. The Supreme Court in the case of **Sarla Verma (supra)** has held that where the deceased was married the deduction towards personal and living expenses should be $\frac{1}{3}$ rd where number of 'dependent family members' is 2 to 3, $\frac{1}{4}$ where the 'dependents family members' is 4 to 6 and $\frac{1}{5}$ th where 'the dependents family members' exceed 6. In a case where the deceased was a

bachelor and the claimants are parents, the deduction follows a different principle. With regard to a bachelor normally 50% is deducted as personal and living expenses on the premise that the bachelor would tend to spend more on himself. The graded deduction based on age of the deceased made on account of the personal and living expenses, is based on the life stage of a person. For instance, as noticed earlier when a person is a bachelor he would tend to spend more on himself apart from the possibility of him getting married in a short time in which event the contribution towards parent or the siblings is likely to be “cut drastically” as held by the Hon'ble Supreme Court in the case of **Sarla Verma (supra)**. Once married, having a wife, children as well as parents and siblings who are dependents, the contribution to the family would be more as normally, the person would tend to expend less on himself and contribute more towards other family members who are dependent on him including the wife, children, parents and siblings. In a case of the present nature where the wife was also earning and children were grown up (and there being no parents who are dependents) again, the person would have a certain amount of luxury to spend more on himself.

14. Coming to the present case, both the parents of the claimants/cross objectors have met with an unfortunate death in the accident. The compensation is claimed by three sons, (out of which, one is married) along

with a daughter who is also married. The daughter -in-law is also one of the claimants. The three sons are grown up and at the time of filing of the petition in the year 2009 were shown to be 26, 29 and 31 years of age. Thus as on the date of the accident in the year 2006 also the claimants could be said to be grown ups and were said to be earning. As noticed earlier it has come in the evidence of AW.1 that he was looking after the transport business after the death of his parents and the claimant no.2 was working abroad. Although it was contended that the claimant no.3 (who was the only son who was married) was unemployed, the same has been rightly disbelieved by the Tribunal. The question is what should be the deduction towards the personal and living expenses. While the tribunal has made a deduction of 50%. According to the cross objectors it should be restricted to 25%. In the exercise of determination of the compensation, a certain amount of guess work is necessary if not evitable. On a carefully consideration of the circumstances and the submissions made, I find that considering the large family of the deceased, it would not be proper to have 50% of the deduction towards personal and living expenses of the deceased. Notwithstanding the fact that the children are grown up and may be earning, the parents may not tend to expend 50% of their income towards their personal and living expenses and would essentially contribute to a reasonable extent to the maintenance and welfare of the family. In my considered view it would be

appropriate that in the present case the deduction towards personal and living expenses is restricted to one third. Thus, the deduction towards personal and living expenses would be Rs.20,000/-. Thus the net income for computing the loss of dependency would be Rs.40,000/- per annum. The relevant multiplier looking to the age of the deceased and as per the decision of the Supreme Court in the case of **Sarla Verma** would be 13. Thus the compensation would be Rs.40,000/- x 13 = Rs.5,20,000/-. A sum of Rs.5000/- can be awarded towards medical and transport expenses. An amount of Rs.15,000/- each can be awarded towards funeral expenses and compensation on account of loss of estate as per the decision of the Supreme Court in the case of **Pranay Sethi (supra)**. In my considered view no compensation under the head loss of consortium would be admissible in this case as as both, the husband as well as the wife died in the accident. Thus the total compensation would be Rs.5,55,000/- which would carry interest at the rate of 9% per annum from the date of the petition till realization.

15. First Appeal no.66/2016 along with Cross Objection No.6 of 2016.

The Tribunal on the basis of the Election Identity Card of the deceased Vithoba has found that at the time of the accident Vithoba was 51 years of age and the appropriate multiplier in accordance with the decision of **Sarla Verma** would be 11. The Tribunal has reckoned the monthly income of the

deceased at Rs.8000/- per month which cannot be said to be excessive or on the a higher side. Thus the annual income would be Rs.96,00,000/-. The addition towards future prospects in respect of a person between the age of 50 to 60 years would be 10%. Thus the addition towards future prospects would be Rs.9,600/- taking the total income to Rs.1,05,600/-. For the similar reasons as mentioned earlier, I am inclined to make a deduction of one third towards personal and living expenses of the deceased. Thus the deduction towards personal and living expenses would be Rs.35,200/-. Thus the net income for calculating compensation on account of loss of dependency would be Rs.70,400/- p.a. Applying a multiplier of 11, the compensation would be Rs.7,74,400/-. The accident occurred on 3/12/2006 and the deceased died after a prolonged treatment on 16/2/2007. Thus an amount of Rs.25,000/- can be awarded towards expenses on medical treatment and transport and Rs.15,000/- each towards funeral expenses and loss of estate. In this case also no compensation would be admissible towards loss of consortium. Thus the total compensation would be Rs.8,29,400/- which would carry interest at the rate of 9% per annum from the date of the petition till realization.

In the result the following order is passed:

ORDER

- (i) F.A. .65/2016 is hereby dismissed. Cross Objection no.6/2016 is partly

allowed. The compensation granted by the Tribunal is enhanced to Rs.5,55,000/- along with interest at the rate of 9% per annum from the date of the petition till realization.

(ii) F. A. No.66/2016 is hereby dismissed. Cross Objection no.5/2016 is partly allowed. The compensation granted by the Tribunal is enhanced to Rs.8,29,400/-, along with interest at the rate of 9% per annum from the date of the petition till realization.

(iii) The compensation so granted shall be inclusive of the compensation under the 'No fault liability'.

(iv) The compensation shall be shared equally amongst the claimants/cross objectors.

(v) In the circumstances, there shall be no order as to costs.

(vi) Decree be drawn accordingly.

C. V. BHADANG, J.

Ap/