

PUTTAMMA & ORS.

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v.

K. L. NARAYANA REDDY & ANR.
(Civil Appeal No. 10918 of 2013)

DECEMBER 9, 2013

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[G.S. SINGHVI AND SUDHANSU
JYOTI MUKHOPADHAYA, JJ.]

Motor Vehicles Act, 1988 – s.166 – Accident claim – Award of compensation – Use of multiplier method – Selection of multiplier based on age group of the deceased/victim – Split multiplier method – Applicability of – Held: The 1988 Act does not envisage application of split multiplier – In absence of any specific reason and evidence on record, Tribunal or Court should not apply split multiplier in routine course and should apply multiplier as per decision of Supreme Court in the case of Sarla Verma as affirmed in the case of Reshma Kumari.

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Motor Vehicles Act, 1988 – ss.163A and 166 – Principles relating to determination of liability and quantum of compensation different for claims made u/s.163A and claims made u/s.166 – Structured formula as prescribed under the Second Schedule in s.163A and the multiplier mentioned therein not binding for claims u/s.166.

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Motor Vehicles Act, 1988 – s.163A, Second Schedule – Applicability and purpose of – Discussed.

Motor Vehicles Act, 1988 – s.163A, Second Schedule – Amendment in – Requirement of – Held: The Second Schedule was enacted in 1994 – It has now become redundant, irrational and unworkable, due to changed scenario including the present cost of living and current rate of inflation and increased life expectancy – Specific direction

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A to Central Government to make proper amendments to the Second Schedule table keeping in view the present cost of living, subject to amendment of Second Schedule as proposed or may be made by the Parliament.

B Motor Vehicles Act, 1988 – s.171 – Accident claim – Compensation – Award of interest – Duty bestowed upon Tribunal and Courts – Held: Under s.171, no rate of interest has been fixed and duty is bestowed upon the Tribunal to fix the rate of interest – Tribunals and Courts to decide the rate of interest after taking into consideration the rate of interest allowed by the Supreme Court in similar case and other factors such as inflation, change in economy, policy adopted by the Reserve Bank of India from time to time and the period since when the case is pending.

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D Motor Vehicle Act, 1988 – s.168 – Compensation – Grant of – Difference between English law and Indian law – Held: According to the English Law compensation/ damages are payable according to the proportionate loss whereas in India compensation is payable which appears to the Tribunal to be just is payable – English Fatal Accidents Act, 1846.

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F Motor Vehicles Act, 1988 – s.166 – Accident claim – Compensation – Determination of – Deceased was 48 years old and drawing gross salary of Rs. 13,331/- per month and paying a sum of Rs.889/- per month towards tax – Deceased left behind four dependent family members – Tribunal awarded compensation of Rs.9.3 lakhs – High Court enhanced the compensation to Rs.11.25 lakhs – On appeal, held: Since deceased left behind four dependent family members, deduction towards his personal and living expenses should be 1/4th – In appeal filed by the claimants, High Court instead of deciding just compensation allowed meager enhancement of compensation – High Court introduced the concept of split multiplier and departed from the multiplier system generally used in light of the decision in Sarla Verma case without disclosing any reason – High Court also did not

consider the question of prospect of future increase in salary of the deceased though it noticed that the deceased would have continued in pensionable services for more than 10 years – When age of the deceased was 48 years at the time of death it wrongly applied multiplier of 10 and not 13 as per decision in 'Sarla Verma' – Thus, judgment of High Court perverse and contrary to the evidence on record and fit to be set aside for having not considered the future prospects of the deceased and also for adopting split multiplier method against the law laid down by Supreme Court – Claimants entitled for total compensation of Rs.23.43 lakhs and also interest on the enhanced compensation at the rate of 12% p.a. from the date of filing of the complaint petition.

'R' aged about 48 years, while returning home on his scooter, met with accident with a Tanker driven by its driver in a rash and negligent manner. On account of the said accident, 'R' fell down and sustained grievous injuries all over the body, and later succumbed to the injuries. His wife and children preferred the claim petition under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.30,00,000/-. The Tribunal held that the accident occurred on account of rash and negligent driving by the driver of the Tanker. It took into consideration the fact that the deceased was drawing a salary of Rs.13,331/- p.m. After deduction of the Income Tax, Professional Tax and personal expenses from the basic salary it awarded a compensation of Rs.9,03,600/-. On appeal by the claimants, the High Court enhanced the compensation to Rs.11,25,000/-. The High Court rounded the age of the deceased as 50 years; applied Rs.8,295/- as multiplicand and deducted 1/3rd amount towards personal expenses. The High Court split the multiplier and applied multiplier of 10 for the multiplicand of Rs.8,295/- and multiplier of 2 for the multiplicand of Rs.4,147/-.

The grievances of the claimants are summarised as follows:-

A (i) Deduction of 1/3rd amount towards personal expenses in all cases is arbitrary and unreasonable.

(ii) Multiplier under Second Schedule cannot be applied in for determination of compensation under Section 166 of the Motor Vehicles Act, 1988.
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(iii) Split multiplier cannot be made applicable in the facts of the case.

(iv) Interest granted by the Tribunal and the High Court was on the lower side which should be 9% in place of 6% per annum.
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At the time of argument, the appellants insisted to issue a direction on the authority to comply with Section 158 (6) and 166 (4) of the Act, 1988. Further prayer was made to direct the Central Government to amend the Second Schedule of the Act, 1988 in light of the present cost of living which increased manifold.
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Allowing the appeal, the Court
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HELD:1.1. Fatal Accident Act, 1855 was the first Indian legislation that provided a right to claim compensation for the death of a person caused by wrongful act of another. It was enacted in accordance with English Fatal Accidents Act, 1846.
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Indian Fatal Accidents Act, 1855 followed the principles in English Fatal Accident Act, 1896 with regard to payment of compensation. Thus, compensation/damages proportionate to the loss resulting from such death was payable. [Paras 11, 12] [847-G; 848-F-G]
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1.2. Motor Vehicle Act was enacted in 1939. Later, by Act No. 100 of 1956 with effect from 16th February, 1957 Motor Vehicle Act, 1939 was amended and claims
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tribunals were constituted under Section 110. In 1988, Motor Vehicle Act, 1939 was repealed and Motor Vehicle Act, 1988 came into force. By bringing Section 168 of the Motor Vehicle Act, 1988 it was reiterated that the amount of compensation payable would be which appeared to be just. [Paras 14, 15] [849-D, H; 850-A]

1.3. Thus according to the English Law compensation/damages were payable according to the proportionate loss whereas in India compensation is payable which appears to the Tribunal to be just is payable. The approach of the Courts according to the English law and according to the Indian Law have to be distinct and separate. Indian Law recognizes just compensation whereas English law required compensation proportionate to the loss suffered. English courts have been calculating loss of money as a bargain as to how much monetary loss has been caused to the claimant, as a result the death of bread earner/deceased. The English Law being different, English judges were having different approach towards the grant of compensation to the deceased's family. [Para 16] [850-F-H; 851-A]

2. Though the method of multiplier is one of the best methods in providing compensation while choosing the multiplier the court/tribunal has to take into consideration the rising inflation, increasing salaries and increasing cost of living. Therefore, just compensation has to be determined keeping in view the Indian background, the Indian culture, the Indian legal background, and the socio-cultural circumstances existing in India. [Para 19] [851-E-F]

3.1. Section 163A of the Motor Vehicles Act, 1988 contains special provisions as to payment of compensation on structured formula basis. The Second

A Schedule referred to in Section 163A of the Act, 1988 prescribes structured formula for the purpose of grant of compensation. By reasons thereof, a multiplier system has been introduced in terms of which amount of compensation is required to be calculated having regard to the age of victim and his annual income. In terms of the note appended to the said Schedule, the amount of compensation so arrived at in cases of fatal accident, is to be reduced by 1/3rd in consideration of the expenses which the victim would have incurred towards maintaining himself. The Second Schedule mandates that the amount of compensation shall not be less than Rs.50,000/-. It also prescribes for grant of compensation under different heads such as general damage in case of death, general case of injury and disability; disability in non-fatal accident and notional income for compensation for those who had no income at the time of accident. The maximum amount which can be paid under different heads has been specified therein. Section 166 of the Act, 1988 relates to application for compensation preferred before the Claims Tribunal. [Paras 23, 24, 26] [854-H; 855-F-H; 856-A-B, D]

3.2. In *Sarla Verma case*, this Court compared Section 163A with Section 166 of the Act, 1988 and reiterated that the principles relating to determination of liability and quantum of compensation were different for the claims under Section 163A and claims made under Section 166. Thus it will be evident from the provisions of the Act that the structured formula as prescribed under Second Schedule and the multiplier mentioned therein is not binding for claims under Section 166 of the Act, 1988. [Paras 28, 29] [860-C-E]

Deepal Girishbhai Son and others vs. United India Insurance Co. Ltd., Baroda (2004) 5 SCC 385 and Sarla

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ANR.

Verma (Smt.) and others vs. Delhi Transport Corporation and another 2009(6) SCC 121: 2009 (5) SCR 1098 – referred to. A

4. Multiplier: This Court in order to bring uniformity and certainty in granting compensation always envisaged payment of just compensation based on multiplier method which is accepted method for determining and ensuring payment of just compensation. [Para 30] [860-E-F] B

Jyotsana Dey and Ors. vs. State of Assam & Ors., 1987 ACJ 172; *Hardeo Kaur & Ors. vs. Rajasthan State Transport Corporation & Anr.* (1992) 2 SCC 567: 1992 (2) SCR 272; *Sarla Verma (Smt.) and others vs. Delhi Transport Corporation and another* 2009(6) SCC 121: 2009 (5) SCR 1098 and *Reshma Kumari & Ors. vs. Madan Mohan & Anr.* (2013) 9 SCC 65: 2013 (2) SCR 706 – referred to. C D

5. Split Multiplier: For determination of compensation in motor accident claims under Section 166, this Court always followed multiplier method. As there were inconsistencies in selection of multiplier, this Court in *Sarla Verma* prepared a table for selection of multiplier based on age group of the deceased/victim. Act, 1988 does not envisage application of split multiplier. In absence of any specific reason and evidence on record the Tribunal or the Court should not apply split multiplier in routine course and should apply multiplier as per decision of this Court in the case of *Sarla Verma* as affirmed in the case of *Reshma Kumari*. [Paras 32, 34] [865-E-F; 866-E] E F

K.R. Madhusudhan and others vs. Administrative Officer and another (2011) 4 SCC 689: 2011 (2) SCR 1061; *Sarla Verma (Smt.) and others vs. Delhi Transport Corporation and another* 2009(6) SCC 121: 2009 (5) SCR 1098 and *Reshma Kumari & Ors. vs. Madan Mohan & Anr.* (2013) 9 SCC 65: 2013 (2) SCR 706 – referred to. G H

- A 6. Compliance of Section 158(6) and 166(4) of the Act, 1988: Information regarding any accident involving death or bodily injury to any person is to be recorded or reported under Section 158(6) of the Act, 1988. Sub Section (4) of Section 166 of the Act, 1988 substantiates the object of enacting the provisions of sub-section (6) of Section 158. [Para 35] [866-F-G; 867-B]

- General Insurance Council & Others v. State of Andhra Pradesh & Others.* (2007) 12 SCC 354: 2007 (8) SCR 192;
 C *Jai Prakash v. National Insurance Co. Ltd. & Ors* (2010) 2 SCC 607: 2009 (16) SCR 710 – referred to.

- 7.1. Applicability of Second Schedule in the present scenario: By Act 54 of 1994, Section 163-A – Special Provisions as to payment of compensation on structured formula basis has been inserted with effect from 14.11.1994. Section 163-A envisages that notwithstanding any contained in the Act or in any other law or instrument having the force of law, the owner of the motor vehicle shall be liable to pay in the case of death or permanent disablement due to accident arising out the use of motor vehicle, compensation as indicated in the second schedule, to the legal heirs or the victim, as the case may be. The purpose of Section 163-A and the Second Schedule is to avoid long-drawn litigation and delay in payment of compensation to the victims or his heirs who are in dire need of relief. Sub-section(2) of Section 163-A envisages that the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person. Sub-section (3) of Section 163-A envisages that the Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the second schedule. [Para 39] [872 B-G]

7.2. Perusal of Second Schedule shows that the legal heirs of the deceased person having an annual income, minimum Rs.3,000/- and maximum Rs.40,000/- could only derive benefit under Section 163A of the Act, 1988. Legal heirs of the deceased person whose income is more than Rs.40,000/- per annum i.e. approximately Rs.3,600/- per month cannot derive advantage of the Second Schedule. The largest multiplier envisaged is 18 in the case of victim "above 25 years of age" but not exceeding 30 years". The multiplier for the higher age is required to be re-looked in view of increase in life expectancy. [Para 40] [876-A-C]

7.3. A minimum amount of compensation of Rs.50,000/- was fixed under Second Schedule in the year 1994. In addition, general damages in lieu of funeral expenses, loss of consortium (if beneficiary is the spouse), medical expenses, pain and suffering, grievous injuries, non-grievous injuries, etc. are also provided for. But no revision was made to these amounts in these 19 years. [Para 41] [876-C-D]

7.4. Keeping in view the cost of living, the Central Government is required to amend the Second Schedule [See Section 163A (3)]. The Second Schedule was enacted by Act 54 of 1994 w.e.f. 14th November, 1994. Now more than 19 years have passed but no amendment has been made. Cost of living has gone up many fold. The Second Schedule as was enacted in 1994 has now become redundant, irrational and unworkable, due to changed scenario including the present cost of living and current rate of inflation and increased life expectancy. [Paras 52, 53] [887-C-E]

7.5. The Central Government was bestowed with duties to amend the Second Schedule in view of Section 163-A(3), but it failed to do so for 19 years in spite of

A repeated observations of this Court. It is proper to issue specific direction to the Central Government through the Secretary, Ministry of Road Transport & Highways to make the proper amendments to the Second Schedule table keeping in view the present cost of living, subject to amendment of Second Schedule as proposed or may be made by the Parliament. Accordingly, the Central Government is directed to do so immediately. Till such amendment is made by the Central Government in exercise of power vested under sub-section (3) of Section 163A of Act, 1988 or amendment is made by the Parliament, it is held and directed that for children upto the age of 5 years shall be entitled for fixed compensation of Rs.1,00,000/-(rupees one lakh) and persons more than 5 years of age shall be entitled for fixed compensation of Rs.1,50,000/-(rupees one lakh and fifty thousand) or the amount may be determined in terms of Second Schedule whichever is higher. Such amount is to be paid if any application is filed under Section 163A of the Act, 1988. [Para 56] [890-B-E]

E *U.P. State Road Transport Corporation & Ors. v. Trilok Chandra & Ors.* (1996) 4 SCC 362: 1996 (2) Suppl. SCR 443; *Oriental Insurance Co. Ltd. v. Hansrajibhai V. Kodala* (2001) 5 SCC 175: 2001 (2) SCR 999; *Deepal Girishbhai Son and others vs. United India Insurance Co. Ltd., Baroda* (2004) 5 SCC 385 and *Sarla Verma (Smt.) and others vs. Delhi Transport Corporation and another* 2009(6) SCC 121: 2009 (5) SCR 1098 – referred to.

8. Grant of Interest: Section 171 of the Act, 1988 deals with the award of interest where any claim is allowed. Under the said provision no rate of interest has been fixed and its duty is bestowed upon the Tribunal to fix the rate of interest. This question is kept open for Tribunals and Courts to decide the rate of interest after taking into consideration the rate of interest allowed by the Supreme

Court in similar case and other factors such as inflation, change in economy, policy adopted by the Reserve Bank of India from time to time and the period since when the case is pending. [Paras 57, 62] [890-F, H; 892-E-F]

Kaushnuma Begum v. New India Assurance Co. Ltd. & Ors. (2001) 2 SCC 9: 2001 (4) SCR 8; *Abati Bezbaruah v. Deputy Director General, Geological Survey of India & Anr.* (2003) 3 SCC 148: 2003 (1) SCR 1229; and *Supe Dei v. National Insurance Co. Ltd. & Anr.* (2009) 4 SCC 513 – referred to.

9.1. In the present case, the deceased was drawing gross salary of Rs. 13,331/- per month and he was paying a sum of Rs.789/- per month towards income tax and an amount of Rs. 100/- per month towards professional tax. Thus he was paying total amount of Rs.889/- per month towards tax and if that amount is deducted from the gross income of the deceased it comes to Rs.12,442/- per month. The deceased was 48 years old at the time of death. He would have continued in service for another 12 years and he would have been entitled for pension. Therefore, if increase in the future income is taken at 50% it will come to Rs.18,663/- (Rs.12,442/- + Rs. 6221). As per decision in '*Sarla Verma*' the deduction towards personal and living expenses of the deceased should be one-third (1/3rd) where the number of dependent family members is 2 to 3; one-fourth (1/4th) where the number of dependent family members is 4 to 6 and one-fifth (1/5th) where the number of dependent family members exceeds 6. In the present case, there are four dependent family members. Therefore, the deduction towards personal and living expenses of the deceased should be 1/4th. If 1/4th amount is deducted from the income of the deceased it will come to Rs.13,998/- (Rs. 12,442/- + Rs. 6,221 – Rs. 4665). At the time of accident, the deceased was 48 years old, hence on the basis of decision in '*Sarla Verma*'

A multiplier of 13 will be applicable. In that case the claimants should be entitled to get the following benefits:

(i) Amount of compensation with 12 months salary and 13 as multiplier (13,998/- x 12 x 13) Rs. 21,83,688/-

(ii) Compensation to the family members (children and family members other than wife) for loss of love and affection, deprivation of protection, social security etc. Rs. 1,00,000/-

(iii) Compensation to the widow of the deceased for loss of love and affection, pains and sufferings, loss of consortium, deprivation of protection, social security etc. Rs. 50,000/-

(iv) Cost incurred on account of funeral and ritual expenses Rs. 10,000/-

Total Compensation Rs. 23,43,688/- [Para 63]
[892-G-H; 893-A-H]

9.2. In the appeal filed by the claimants before the High Court, the High Court instead of deciding the just compensation allowed meager enhancement of compensation. In doing so, the High Court introduced the concept of split multiplier and departed from the multiplier system generally used in light of the decision in *Sarla Verma* case without disclosing any reason. The High Court also did not consider the question of prospect of future increase in salary of the deceased though it noticed that the deceased would have continued in pensionable services for more than 10 years. When the age of the deceased was 48 years at the time of death it wrongly applied multiplier of 10 and not 13 as per decision in '*Sarla Verma*'. Thus, the judgment of the High Court is perverse and contrary to the evidence on record

and is fit to be set aside for having not considered the future prospects of the deceased and also for adopting split multiplier method against the law laid down by this Court. The impugned judgment, is accordingly, set aside and it is held that the claimants are entitled for total compensation of Rs.23,43,688/-. They shall also get interest on the enhanced compensation at the rate of 12% per annum from the date of filing of the complaint petition. Respondent No.2-Insurance Company is directed to pay enhanced/additional compensation and interest to the claimants within a period of three months. [Para 64] [894-A-F]

Case Law Reference :

(2004) 5 SCC 385	referred to	Para 27	A
2009 (5) SCR 1098	referred to	Para 28	B
1987 ACJ 172	referred to	Para 30	C
1992 (2) SCR 272	referred to	Para 30	
2013 (2) SCR 706	referred to	Para 31	D
2011 (2) SCR 106	referred to	Para 33	E
2007 (8) SCR 192	referred to	Para 36	
2009 (16) SCR 710	referred to	Para 37	F
1996 (2) Suppl. SCR 443	referred to	Para 43	
2001 (2) SCR 999	referred to	Para 44	
2001 (1) SCR 8	referred to	Para 59	G
2003 (1) SCR 1229	referred to	Para 60	
(2009) 4 SCC 513	referred to	Para 61	

A From the Judgment and Order dated 19.03.2009 of the High Court of Karnataka at Bangalore in MFA No. 2344 of 2004

P. P. Malhotra, ASG, Yasir Rauf, Rajan Mukherjee, Kiran Suri, Nakibur Rahman Barbhuiya, Vishnu Mehra, Sakshi Gupta Manjeet Chawla for the appearing parties.

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The Judgment of the Court was delivered by

SUDHANSU JYOTI MUKHOPADHAYA, J. 1. Delay condoned. Leave granted.

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2. This appeal has been preferred by the appellants-claimants in motor accident case against the judgment and order dated 19th March, 2009 passed by the Division Bench of the High Court of Karnataka, Bangalore in a motor accident case being Miscellaneous First Appeal No. 2344 of 2004(MV).

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They are not happy with the meager enhancement of compensation granted by the High Court.

3. The brief facts of the case are as follows:-

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That Ramadas, aged about 48 years, was working as a Typesetting Assistant in Computer Section of the Mysore Printers Limited (Deccan Herald). On 27th July, 1999 at about 1.30 a.m. while he was returning home on his scooter bearing Registration No.KA 03/K 7514 on Hosur-Luskar road, near Mico Software, he met with accident with a Tanker bearing Registration No.KA 05/A 5995 driven by its driver in a rash and negligent manner. On account of the said accident, Ramadas fell down and sustained grievous injuries all over the body. He was shifted to Victoria Hospital, where he succumbed to the injuries.

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4. His wife and children preferred the claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act, 1988), claiming compensation of Rs.30,00,000/-. The 2nd respondent (Insurance Company) contested the claim. They had not disputed the accident or the insurance coverage. On behalf of the claimant, witnesses were

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examined including P.W-1, who was the claimant No.1 and another one Chandrashekar, an eye-witness to the accident. Nine documents were led as evidence marked as Exhs.P1 to P9. No oral evidence was adduced by the respondents. The Insurance Policy was marked as Exh.R1.

5. The Tribunal on appreciation of the oral and documentary evidence on record held that the accident was occurred on account of rash and negligent driving by the driver of the Tanker. It took into consideration the fact that the deceased was drawing a salary of Rs.13,331/- p.m. After deduction of the Income Tax, Professional Tax and personal expenses from the basic salary it awarded a compensation of Rs.9,03,600/-.

6. On appeal preferred by the claimants, the High Court enhanced the compensation to Rs.11,25,000/-. The High Court rounded the age of the deceased as 50 years; applied Rs.8,295/- as multiplicand and deducted 1/3rd amount towards personal expenses. The High Court split the multiplier and applied multiplier of 10 for the multiplicand of Rs.8,295/- and multiplier of 2 for the multiplicand of Rs.4,147/-.

7. The grievances of the claimants are summarised as follows:-

(i) Deduction of 1/3rd amount towards personal expenses in all cases is arbitrary and unreasonable.

(ii) Multiplier under Second Schedule cannot be applied in for determination of compensation under Section 166 of the Motor Vehicles Act, 1988.

(iii) Split multiplier cannot be made applicable in the facts of the case.

(iv) Interest granted by the Tribunal and the High Court is lower side which should be 9% in place of 6% per annum.

A At the time of argument learned counsel for the appellants insisted to issue a direction on the authority to comply with Section 158 (6) and 166 (4) of the Act, 1988. Further prayer was made to direct the Central Government to amend the Second Schedule of the Act, 1988 in light of the present cost
 B of living which increased manifold.

8. Per contra, according to the counsel for respondent No.2-Oriental Insurance Co. Ltd. (hereinafter referred to as, "the Insurance Company") the compensation paid in favour of the claimants is just and proper, multiplier method is sound method
 C of assessing compensation; Section 163(A) directs to follow a structured formula indicated in Second Schedule to avoid long drawn litigation and delay in payment of compensation; there is consistency and uniformity in the said approach.

D 9. Before we refer to the broad features of the Act, 1988, it is desirable to notice the background in which the Parliament considered it necessary to bring in the provisions of the Motor Vehicles Act.

E (i) Before **Indian Fatal Accident Act, 1855** came into force in India, there was no provision in Indian Laws to maintain a claim for damages/compensation by the legal representative of the deceased for his death caused by tort/civil wrong or even
 F by crime. The right to claim compensation died with the death of a person.

(ii) Prior to the enforcement of Indian Fatal Accident Act, 1855 in England there was a statute, namely, **Fatal Accident Act, 1846** certain provisions of which read as under:

G (a) 'Whereas no action at law is now maintainable a person who by his wrongful act, neglect or default may have caused the death of another person, and it is often-times right and expedient that the wrongdoer in such cases

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should be answerable in damages for the injury so caused by him.' Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, that whensoever the death of a person shall be caused by a wrongful act, neglect and default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, then and in every such case the person who would have been liable if death had not ensued shall be liable to an action for damages, notwithstanding the death shall have been caused under such circumstances as amount in law to a Felony.

(b) And be it enacted, that every such action shall be for the benefit of the wife, husband, parent and child of the person whose death shall have been so caused, and shall be brought by and in the name of the executor or administrator of the person deceased; and in every such action the Jury may give such Damages as they may think proportioned to the Injury for such death to the parties respectively for whom and for whose benefit such action shall be brought; and the amount so recovered, after deducting the costs not recovered from the defendant.....

10. In England, there have been several amendments and enactments after the Fatal Accidents Act, 1846.

11. Fatal Accident Act, 1855 was the first Indian legislation that provided a right to claim compensation for the death of a person caused by wrongful act of another. It was enacted in accordance with English Fatal Accidents Act, 1846. Section 1A of the Indian Fatal Accident Act, 1855 reads as under:

"[1A] Suit for compensation to the family of a person

A **for loss occasioned to it by his death by actionable wrong?** Whenever the death of a person shall be caused by wrongful act, neglect, or default, and the act, neglect or default is such as would (if death had not ensued have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime.

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D [3][***] Every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the executor, administrator or representative of the person deceased;

E **and in every such action, the court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively,** for whom and for whose benefit such action shall be brought, and the amount so recovered, after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before mentioned parties, or any of them, in such shares as the court by its judgment or decree shall direct.”

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G 12. Indian Fatal Accidents Act, 1855 followed the principles in English Fatal Accident Act, 1896 with regard to payment of compensation. Thus, compensation/damages proportionate to the loss resulting from such death was payable.

H 13. Under Section 306 of the Indian Succession Act 1925 all rights for claiming damages after the death of a person survive and legal representative could claim damages. Section 306 of the Indian Succession Act, 1925 reads as under:

"306. Demands and rights of action of or against deceased survive to and against executor or administrator – All demands whatsoever all rights to prosecute or defend any action or special proceedings existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators; except causes of action for defamation, assault, as defined in the Indian Penal Code, 1960 (45 of 1860) or other personal injuries not causing the death of the party; and except also cases where, after the death of the party, the relief sought could not be enjoyed or granting it would be nugatory."

14. Motor Vehicle Act was enacted in 1939. Later, by Act No. 100 of 1956 with effect from 16th February, 1957 Motor Vehicle Act, 1939 was amended and claims tribunals were constituted under Section 110. Section 110 to Section 110F of the Motor Vehicles Act, 1939 were brought. Section 110B of the Motor Vehicle Act, 1939 as amended reads as under:-

"110B. Award of the Claims Tribunal - On receipt of an application for compensation made under Section 110-A, the Claims Tribunal shall, after giving the parties an opportunity of being heard, [hold an inquiry into the claim or, as the case may be, each of the claims and, subject to the provisions of Section 109-B, may make an award] **determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid; and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer [or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be]."**

15. In 1988, Motor Vehicle Act, 1939 was repealed and Motor Vehicle Act, 1988 came into force. By bringing Section 168 of the Motor Vehicle Act, 1988 it was reiterated that the

A amount of compensation payable would be **which appeared to be just**; Section 168 of the amended Motor Vehicle Act reads as under:

B “**168. Award of the Claims Tribunal** – (1) On receipt of an application for compensation made under Section 166, the Claims Tribunal shall, after giving notice of the application to the insurer and after giving the parties (including the insurer) an opportunity of being heard, hold an inquiry into the claims or, as the case may be, each of the claims and, subject to the provisions of Section 162
C may make an award **determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be:**

E Provided that where such application makes a claim for compensation under Section 140 in respect of the death or permanent disablement of any person, such claim and any other claim (whether made in such application or otherwise) for compensation in respect of such death or permanent disablement shall be disposed of in accordance with the provisions of Chapter X.”

F 16. Thus according to the English Law compensation/
G damages were payable according to the proportionate loss whereas in India compensation is payable which appears to the Tribunal to be just is payable. The approach of the Courts according to the English law and according to the Indian Law have to be distinct and separate. Indian Law recognizes just compensation whereas English law required compensation proportionate to the loss suffered. English courts have been calculating loss of money as a bargain as to how much monetary
H loss has been caused to the claimant, as a result the death of

bread earner/deceased. The English Law being different, English judges were having different approach towards the grant of compensation to the deceased's family.

17. Here in India, we have a different culture. Here, every parent thinks that it is his moral and legal duty to give fullest education to his children. Parents think that marriage of their children is their responsibility and even providing a house to their children and grand children is their responsibility. Here, in India, the concept of culture and family life is totally distinct from the culture and family life in England and in other foreign countries. Here, parents not only educate the children but spend huge amounts or at least sufficient amounts on the marriages of their children, on their education, for their housing needs and in majority of cases in return they are looked after in old ages.

18. Most of the people work even after their retirement to support their children. The longevity of life in India has increase at least upto 69 years; in many cases, peoples live longer than that. The salaries and cost of things increase rapidly. At a glance, between every 9-10 years they double.

19. Though the method of multiplier is one of the best methods in providing compensation while choosing the multiplier the court/tribunal has to take into consideration the rising inflation, increasing salaries and increasing cost of living. Therefore, we have to determine just compensation keeping in view the Indian background, the Indian culture, the Indian legal background, and the socio-cultural circumstances existing in India.

Relevant statutory provisions of Act, 1988

20. "Liability without fault" in certain cases is provided under Chapter X. Section 140 prescribes liability upon the owner of the vehicle on the principle of no fault and reads as follows:

A **“140. Liability to pay compensation in certain cases**
B **on the principle of no fault.-** (1) Where death or
 permanent disablement of any person has resulted from
 an accident arising out of the use of a motor vehicle or
 motor vehicles, the owner of the vehicle shall, or, as the
 case may be, the owners of the vehicles shall, jointly and
 severally, be liable to pay compensation in respect of such
 death or disablement in accordance with the provisions of
 this section.

C (2) The amount of compensation which shall be payable
 under sub-section (1) in respect of the death of any person
 shall be a fixed sum of 1[fifty thousand rupees] and the
 amount of compensation payable under that sub-section
 in respect of the permanent disablement of any person
 shall be a fixed sum of 2[twenty-five thousand rupees].

D (3) In any claim for compensation under sub-section (1),
 the claimant shall not be required to plead and establish
 that the death or permanent disablement in respect of
 which the claim has been made was due to any wrongful
E act, neglect or default of the owner or owners of the vehicle
 or vehicles concerned or of any other person.

F (4) A claim for compensation under sub-section (1) shall
 not be defeated by reason of any wrongful act, neglect or
 default of the person in respect of whose death or
 permanent disablement the claim has been made nor shall
 the quantum of compensation recoverable in respect of
 such death or permanent disablement be reduced on the
 basis of the share of such person in the responsibility for
 such death or permanent disablement.

G [(5) Notwithstanding anything contained in sub-section (2)
 regarding death or bodily injury to any person, for which
 the owner of the vehicle is liable to give compensation for
 relief, he is also liable to pay compensation under any other
H law for the time being in force:

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Provided that the amount of such compensation to be given under any other law shall be reduced from the amount of compensation payable under this section or under section 163 A.]” A

21. Section 141 relates to provisions as to whether right to claim compensation for death or permanent disablement and reads as follows: B

“141. Provisions as to other right to claim compensation for death or permanent disablement.- C

(1)The right to claim compensation under section 140 in respect of death or permanent disablement of any person shall be in addition to any other right (hereafter in this section referred to as the right on the principle of fault) to claim compensation in respect thereof under any other provision of this Act or of any other law for the time being in force. D

(2)A claim for compensation under section 140 in respect of death or permanent disablement of any person shall be disposed of as expeditiously as possible and where compensation is claimed in respect of such death or permanent disablement under section 140 and also in pursuance of any right on the principle of fault, the claim for compensation under section 140 shall be disposed of as aforesaid in the first place. E F

(3)Notwithstanding anything contained in sub-section (1), where in respect of the death or permanent disablement of any person, the person liable to pay compensation under section 140 is also liable to pay compensation in accordance with the right on the principle of fault, the person so liable shall pay the first-mentioned compensation and— G

(a)if the amount of the first-mentioned H

A compensation is less than the amount of the
 second-mentioned compensation, he shall be
 liable to pay (in addition to the first-mentioned
 compensation) only so much of the second-
 mentioned compensation as is equal to the amount
 B by which it exceeds the first-mentioned
 compensation;

(b) if the amount of the first-mentioned
 compensation is equal to or more than the
 C amount of the second-mentioned compensation,
 he shall not be liable to pay the second-mentioned
 compensation."

22. Section 142 prescribes permanent disablement as
 follows:

D "142. Permanent disablement.- For the purposes of this
 Chapter, permanent disablement of a person shall be
 deemed to have resulted from an accident of the nature
 referred to in sub-section (1) of section 140 if such person
 E has suffered by reason of the accident, any injury or injuries
 involving-

(a) permanent privation of the sight of either eye or the
 hearing of either ear, or privation of any member or joint;
 F or

(b) destruction or permanent impairing of the powers of any
 member or joint; or

(c) permanent disfiguration of the head or face."

G Section 144 provides for non-obstante clause.

23. Section 163A contains special provisions as to
 payment of compensation on structured formula basis. It came
 into force from 14th November, 1994 and reads as follows:

H

"163A. Special provisions as to payment of compensation on structured formula basis.- (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle of the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

Explanation.-For the purposes of this sub-section, "permanent disability" shall have the same meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923).

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

(3) The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule."

24. The Second Schedule referred to in Section 163A of the Act, 1988 prescribes structured formula for the purpose of grant of compensation. By reasons thereof, a multiplier system has been introduced in terms of which amount of compensation is required to be calculated having regard to the age of victim and his annual income. In terms of the note appended to the said Schedule, the amount of compensation so arrived at in cases of fatal accident, is to be reduced by 1/3rd in consideration of the expenses which the victim would have incurred towards maintaining himself.

A The Second Schedule mandates that the amount of
 compensation shall not be less than Rs.50,000/-. It also
 prescribes for grant of compensation under different heads
 such as general damage in case of death, general case of injury
 and disability; disability in non-fatal accident and notional
 B income for compensation for those who had no income at the
 time of accident. The maximum amount which can be paid
 under different heads has been specified therein.

C 25. Section 163B provides two options for claim in certain
 cases as quoted below:

D “163B. Option to file claim in certain cases.- Where a
 person is entitled to claim compensation under section 140
 and section 163A, he shall file the claim under either of
 the said sections and not under both.”

26. Section 166 relates to application for compensation
 preferred before the Claim Tribunal and Section 167 provides
 option regarding claim for compensation in certain cases, they
 reads as follows:

E “166. Application for compensation.- (1)
 An Application for compensation arising out of an accident
 of the nature specified in sub-section (1) of section 165
 may be made-

F (a) by the person who has sustained the injury; or

(b) by the owner of the property; or

G (c) where death has resulted from the accident, by all or
 any of the legal representatives of the deceased; or

(d) by any agent duly authorised by the person injured or
 all or any of the legal representatives of the deceased, as
 the case may be:

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Provided that where all the legal representatives of the deceased have not joined in any such Application for compensation, the Application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the Application.

[(2) Every Application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed:

Provided that where no claim for compensation under section 140 is made in such Application, the Application shall contain a separate statement to that effect immediately before the signature of the applicant.]

3[***]

[(4) The Claims Tribunal shall treat any report of accidents forwarded to it under sub-section (6) of section 158 as an Application for compensation under this Act.]

167.Option regarding claims for compensation in certain cases.- Notwithstanding anything contained in the Workmen's Compensation Act, 1923 (8 of 1923) where the death of, or bodily injury to, any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both."

A 27. *In Deepal Girishbhai Son and others vs. United India Insurance Co. Ltd., Baroda, (2004) 5 SCC 385, a larger Bench of three-Judge held:*

B “41. Section 140 of the Act dealt with interim
C compensation but by inserting Section 163-A,
D Parliament intended to provide for the making of an
award consisting of a predetermined sum without insisting
on a long-drawn trial or without proof of negligence in
causing the accident. The amendment was, thus, a
deviation from the common law liability under the law of
torts and was also in derogation of the provisions of the
Fatal Accidents Act. The Act and the Rules framed by
the State in no uncertain terms suggest that a new device
was sought to be evolved so as to grant a quick and
efficacious relief to the victims falling within the specified
category. The heirs of the deceased or the victim in terms
of the said provisions were assured of a speedy and
effective remedy which was not available to the claimants
under Section 166 of the Act.

E 42. Section 163-A was, thus, enacted for grant of
immediate relief to a section of the people whose annual
income is not more than Rs 40,000 having regard to the
fact that in terms of Section 163-A of the Act read with
the Second Schedule appended thereto, compensation
is to be paid on a structured formula not only having
regard to the age of the victim and his income but also
the other factors relevant therefor. An award made
thereunder, therefore, shall be in full and final settlement
of the claim as would appear from the different columns
contained in the Second Schedule appended to the Act.
The same is not interim in nature. The note appended
to column 1 which deals with fatal accidents makes the
position furthermore clear stating that from the total
amount of compensation one-third thereof is to be
reduced in consideration of the expenses which the

H

victim would have incurred towards maintaining himself had he been alive. This together with the other heads of compensation as contained in columns 2 to 6 thereof leaves no manner of doubt that Parliament intended to lay a comprehensive scheme for the purpose of grant of adequate compensation to a section of victims who would require the amount of compensation without fighting any protracted litigation for proving that the accident occurred owing to negligence on the part of the driver of the motor vehicle or any other fault arising out of use of a motor vehicle.

In the said case the Court further held:

52. It may be true that Section 163-B provides for an option to a claimant to either go for a claim under Section 140 or Section 163-A of the Act, as the case may be, but the same was inserted ex abundanti cautela so as to remove any misconception in the minds of the parties to the lis having regard to the fact that both relate to the claim on the basis of no-fault liability. Having regard to the fact that Section 166 of the Act provides for a complete machinery for laying a claim on fault liability, the question of giving an option to the claimant to pursue their claims both under Section 163-A and Section 166 does not arise. If the submission of the learned counsel is accepted the same would lead to an incongruity.

53. Although the Act is a beneficial one and, thus, deserves liberal construction with a view to implementing the legislative intent but it is trite that where such beneficial legislation has a scheme of its own and there is no vagueness or doubt therein, the court would not travel beyond the same and extend the scope of the statute on the pretext of extending the statutory benefit to those who are not covered thereby. (See Regional Director, ESI Corpn. v. Ramanuja Match Industries (1985) 1 SCC 218.

A 57. We, therefore, are of the opinion that the remedy for
 payment of compensation both under Sections 163-A and
 166 being final and independent of each other as statutorily
 provided, a claimant cannot pursue his remedies
 thereunder simultaneously. One, thus, must opt/elect to go
 B either for a proceeding under Section 163-A or under
 Section 166 of the Act, but not under both."

C 28. *In Sarla Verma(Smt.) and others vs. Delhi Transport
 Corporation and another, 2009(6), SCC 121, this Court
 compared Section 163A with Section 166 of the Act, 1988 and
 reiterated that the principles relating to determination of
 liability and quantum of compensation were different for the
 claims under Section 163A and claims made under Section
 166.*

D 29. Thus it will be evident from the provisions of the Act
 that the structured formula as prescribed under Second
 Schedule and the multiplier mentioned therein is not binding for
 claims under Section 166 of the Act, 1988.

E Multiplier

F 30. This Court in order to bring uniformity and certainty in
 granting compensation always envisaged payment of just
 compensation based on multiplier method which is accepted
 method for determining and ensuring payment of just
 compensation.

This Court has applied different multipliers in following
 different cases:

G (1) General Manager, Kerala State Road Transport
 Corporation, Trivandrum vs. Susamma Thomas
 (Mrs.) and others, (1994) 2 SCC 176 - The
 multiplier applied is 12.

H (2) S.Chandra and others vs. Pallavan Transport

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Corporation, 1994(2) SCC 189 - The multiplier applied is 20. A

(3) Sarla Dixit (Smt.) and another vs. Balwant Yadav and others, (1996) 3 SCC 179- The multiplier applied is 15. B

(4) U.P. State Road Transport Corporation and others vs. Trilok Chandra and others, (1996) 4 SCC 362- The multiplier applied is 15. This Court further held that multiplier cannot exceed 18 years purchase factor. C

(5) Jyoti Kaul and others vs. State of M.P. and another, (2002) 6 SCC 306- The multiplier applied is 15. D

(6) T.N. State Transport Corpn. Ltd. vs. S. Rajapriya and others, (2005) 6 SCC 236- The multiplier applied is 12. E

(7) New India Assurance Co.Ltd. vs. Charlie and another, (2005) 10 SCC 720- The multiplier applied is 18. F

(8) U.P. State Road Transport Corpn. vs. Krishna Bala and others, (2006) 6 SCC 249- The multiplier applied is 13. G

(9) New India Assurance Co.Ltd. vs. Kalpana (Smt.) and others, (2007) 3 SCC 538- The multiplier applied is 13. H

(10) Oriental Insurance Company Limited vs. Jashuben and others, (2008) 4 SCC 162 - the multiplier applied is 13.

However, in *Jyotsana Dey and Ors. vs. State of Assam & Ors.*, 1987 ACJ 172, this court applied a multiplier of 25

A **years and in Hardeo Kaur & Ors. vs. Rajasthan State Transport Corporation & Anr., (1992) 2 SCC 567, this Court applied a multiplier of 24 years.**

B 31. *In Sarla Verma (Supra) this Court held that the multiplier should be used in the following manner:*

C “42. 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.”

D This Court laid down the above guidelines to ensure uniformity and consistency in the selection of multiplier while
E awarding compensation in motor accident claims made under Section 166.

F *The application of multiplier fell for consideration recently before three-Judge Bench in Reshma Kumari & Ors. vs. Madan Mohan & Anr., (2013)9 SCC 65. In the said case this Court held:*

G “33. We have already noticed the table prepared in Sarla Verma for the selection of multiplier. The table has been prepared in Sarla Verma having regard to the three decisions of this Court, namely, Susamma Thomas¹, Trilok Chandra and Charlie for the claims made under Section 166 of the 1988 Act. The Court said that multiplier shown in Column (4) of the table must be used having regard to the age of the deceased. Perhaps the biggest
H advantage by employing the table prepared in Sarla

Verma is that the uniformity and consistency in selection of the multiplier can be achieved. The assessment of extent of dependency depends on examination of the unique situation of the individual case. Valuing the dependency or the multiplicand is to some extent an arithmetical exercise. The multiplicand is normally based on the net annual value of the dependency on the date of the deceased's death. Once the net annual loss (multiplicand) is assessed, taking into account the age of the deceased, such amount is to be multiplied by a 'multiplier' to arrive at the loss of dependency. In Sarla Verma, this Court has endeavoured to simplify the otherwise complex exercise of assessment of loss of dependency and determination of compensation in a claim made under Section 166. It has been rightly stated in Sarla Verma that claimants in case of death claim for the purposes of compensation must establish (a) age of the deceased; (b) income of the deceased; and (c) the number of dependants. To arrive at the loss of dependency, the Tribunal must consider (i) additions/ deductions to be made for arriving at the income; (ii) the deductions to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference to the age of the deceased. We do not think it is necessary for us to revisit the law on the point as we are in full agreement with the view in Sarla Verma.

34. If the multiplier as indicated in Column (4) of the table read with paragraph 42 of the Report in Sarla Verma is followed, the wide variations in the selection of multiplier in the claims of compensation in fatal accident cases can be avoided. A standard method for selection of multiplier is surely better than a criss-cross of varying methods. It is high time that we move to a standard method of selection of multiplier, income for future prospects and deduction for personal and living expenses. The courts in some of the

A overseas jurisdictions have made this advance. It is for these reasons, we think we must approve the table in Sarla Verma¹⁷ for the selection of multiplier in claim applications made under Section 166 in the cases of death. We do accordingly. If for the selection of multiplier, Column (4) of the table in Sarla Verma is followed, there is no likelihood of the claimants who have chosen to apply under Section 166 being awarded lesser amount on proof of negligence on the part of the driver of the motor vehicle than those who prefer to apply under Section 163A. As regards the cases where the age of the victim happens to be upto 15 years, we are of the considered opinion that in such cases irrespective of Section 163A or Section 166 under which the claim for compensation has been made, multiplier of 15 and the assessment as indicated in the Second Schedule subject to correction as pointed out in Column (6) of the table in Sarla Verma should be followed. This is to ensure that claimants in such cases are not awarded lesser amount when the application is made under Section 166 of the 1988 Act. In all other cases of death where the application has been made under Section 166, the multiplier as indicated in Column (4) of the table in Sarla Verma should be followed.

F “40. In what we have discussed above, we sum up our conclusions as follows:

G (i) In the applications for compensation made under Section 166 of the 1988 Act in death cases where the age of the deceased is 15 years and above, the Claims Tribunals shall select the multiplier as indicated in Column (4) of the table prepared in Sarla Verma read with para 42 of that judgment.

H (ii) In cases where the age of the deceased is upto 15 years, irrespective of the Section 166 or Section 163A

A multiplier and departed from the multiplier used by the Tribunal without disclosing any reason therefor. The High Court has also not considered the clear and corroborative evidence about the prospect of future increment of the deceased. When the age of the deceased is between 51 and 55 years the multiplier is 11, which is specified in the 2nd column in the Second Schedule to the Motor Vehicles Act, and the Tribunal has not committed any error by accepting the said multiplier. This Court also fails to appreciate why the High Court chose to apply the multiplier of 6.

15. We are, thus, of the opinion that the judgment of the High Court deserves to be set aside for it is perverse and clearly contrary to the evidence on record, for having not considered the future prospects of the deceased and also for adopting a split multiplier method.”

34. *We, therefore, hold that in absence of any specific reason and evidence on record the Tribunal or the Court should not apply split multiplier in routine course and should apply multiplier as per decision of this Court in the case of Sarla Verma (supra) as affirmed in the case of Reshma Kumari (supra).*

Compliance of Section 158(6) and 166(4) of the Act, 1988

35. Information regarding any accident involving death or bodily injury to any person is to be recorded or reported under Section 158(6) of the Act, 1988 which mandates as follows:

“**158 (6)** As soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under this section is completed by a police officer, the officer incharge of the police station shall forward a copy of the same within thirty days from the date of recording of information or, as the case may be, on completion of such report to the Claims Tribunal having

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jurisdiction and a copy thereof to the concerned insurer, and where a copy is made available to the owner, he shall also within thirty days of receipt of such report, forward the same to such Claims Tribunal and Insurer.”

Sub Section (4) of Section 166 of the Act, 1988 substantiates the object of enacting the provisions of sub-section (6) of Section 158, which reads as under:

“166 (4) The Claims Tribunal shall treat any report of accidents forwarded to it under sub-section (6) of Section 158 as an application for compensation under this Act.”

36. Surprisingly, such a useful provision such as Section 158(6) of the Act, 1988 was lying dormant for a long period. A writ petition for enforcement of the said provision came to be filed in this Court in the case of *General Insurance Council & Others v. State of Andhra Pradesh & Others* (2007) 12 SCC 354 in which it has been held and directed as under:

“9. Since there is a mandatory requirement to act in the manner provided in Section 158(6) there is no justifiable reason as to why the requirement is not being followed.

10. It is, therefore, directed that all the State Governments and the Union Territories shall instruct, if not already done, all police officers concerned about the need to comply with the requirement of Section 158(6) keeping in view the requirement indicated in Rule 150 and in Form 54. Periodical checking shall be done by the Inspector General of Police concerned to ensure that the requirements are being complied with. In case there is non-compliance, appropriate action shall be taken against the erring officials. The Department of Road Transport and Highways shall make periodical verification to ensure that action is being taken and in case of any deviation immediately bring the same to the notice of the State Governments/Union

A Territories concerned so that necessary action can be taken against the officials concerned.”

B 37. This Court in *Jai Prakash v. National Insurance Co. Ltd. & Ors* (2010) 2 SCC 607 again noticed the aforesaid provisions and issued following directions to the police authorities:

C “16. The Director General of Police of each State is directed to instruct all police stations in his State to comply with the provisions of Section 158(6) of the Act. For this purpose, the following steps will have to be taken by the Station House Officers of the jurisdictional police stations:

D (i) Accident information report (“AIR”, for short) in Form No. 54 of the Central Motor Vehicles Rules, 1989 shall be submitted by the police (Station House Officer) to the jurisdictional Motor Accidents Claims Tribunal, within 30 days of the registration of the FIR. In addition to the particulars required to be furnished in Form No. 54, the police should also collect and furnish the following additional particulars in the AIR to the Tribunal:

E (i) The age of the victims at the time of accident;

F (ii) The income of the victim;

(iii) The names and ages of the dependent family members.

G (ii) The AIR shall be accompanied by the attested copies of the FIR, site sketch/mahazar/photographs of the place of occurrence, driving licence of the driver, insurance policy (and if necessary, fitness certificate) of the vehicle and post-mortem report (in case of death) or the injury/wound certificate (in case of injuries). The names/addresses of injured or dependent family members of the deceased should also be furnished to the Tribunal.

H (iii) Simultaneously, a copy of the AIR with annexures

thereto shall be furnished to the insurance company concerned to enable the insurer to process the claim. A

(iv) The police shall notify the first date of hearing fixed by the Tribunal to the victim (injured) or the family of the victim (in case of death) and the driver, owner and insurer. If so directed by the Tribunal, the police may secure their presence on the first date of hearing. B

17. To avoid any administrative difficulties in immediate implementation of Section 158(6) of the Act, we permit such implementation to be carried out in three stages. In the first stage, all police stations/Claims Tribunals in the NCT region and the State capital regions shall implement the provisions by the end of April, 2010. In the second stage, all the police stations/Claims Tribunals in district headquarters regions shall implement the provisions by the end of August, 2010. In the third stage, all the police stations/Claims Tribunals shall implement the provisions by the end of December, 2010. The Directors General shall ensure that necessary forms and infrastructural support is made available to give effect to Section 158(6) of the Act. C
D
E

18. Section 196 of the Act provides that whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of Section 146 shall be punishable with imprisonment which may be extended to three months, or with a fine which may extend to Rs 1000, or with both. Though the statute requires prosecution of the driver and owner of uninsured vehicles, this is seldom done. Thereby a valuable deterrent is ignored. We therefore direct the Directors General to issue instructions to prosecute drivers and owners of uninsured vehicles under Section 196 of the Act. F
G

19. The Transport Department, Health Department and other departments concerned shall extend necessary H

A cooperation to the Directors General to give effect to Section 158(6).”

38. Further, directions were issued to the Claim Tribunals for compliance of mandatory provisions of Section 158(6) of the Act, 1988 which reads as under:-

B “20. The Registrar General of each High Court is directed to instruct all Claims Tribunals in his State to register the reports of accidents received under Section 158(6) of the Act as applications for compensation under Section 166(4) of the Act and deal with them without waiting for the filing of claim applications by the injured or by the family of the deceased. The Registrar General shall ensure that necessary registers, forms and other support is extended to the Tribunal to give effect to Section 166(4) of the Act.

D 21. For complying with Section 166(4) of the Act, the jurisdictional Motor Accidents Claims Tribunals shall initiate the following steps:

E (a) The Tribunal shall maintain an institution register for recording the AIRs which are received from the Station House Officers of the police stations and register them as miscellaneous petitions. If any private claim petitions are directly filed with reference to an AIR, they should also be recorded in the register.

F (b) The Tribunal shall list the AIRs as miscellaneous petitions. It shall fix a date for preliminary hearing so as to enable the police to notify such date to the victim (family of the victim in the event of death) and the owner, driver and insurer of the vehicle involved in the accident. Once the claimant(s) appear, the miscellaneous application shall be converted to claim petition. Where a claimant(s) file the claim petition even before the receipt of the AIR by the Tribunal, the AIR may be tagged to the claim petition.

H (c) The Tribunal shall enquire and satisfy itself that the AIR relates to a real accident and is not the result of any

collusion and fabrication of an accident (by any "police officer-advocate-doctor" nexus, which has come to light in several cases).

A

(d) The Tribunal shall by a summary enquiry ascertain the dependent family members/legal heirs. The jurisdictional police shall also enquire and submit the names of the dependent legal heirs.

B

(e) The Tribunal shall categorise the claim cases registered, into those where the insurer disputes liability and those where the insurer does not dispute the liability.

C

(f) Wherever the insurer does not dispute the liability under the policy, the Tribunal shall make an endeavour to determine the compensation amount by a summary enquiry or refer the matter to the Lok Adalat for settlement, so as to dispose of the claim petition itself, within a time-frame not exceeding six months from the date of registration of the claim petition.

D

(g) The insurance companies shall be directed to deposit the admitted amount or the amount determined, with the Claims Tribunals within 30 days of determination. The Tribunals should ensure that the compensation amount is kept in a fixed deposit and disbursed as per the directions contained in Kerala SRTC v. Susamma Thomas.

E

(h) As the proceedings initiated in pursuance of Sections 158(6) and 166(4) of the Act are different in nature from an application by the victim(s) under Section 166(1) of the Act, Section 170 will not apply. The insurers will therefore be entitled to assist the Tribunal (either independently or with the owners of the vehicles) to verify the correctness in regard to the accident, injuries, age, income and dependants of the deceased victim and in determining the quantum of compensation."

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A 39. In view of the directions already issued by this Court, we find no reason to issue any further direction.

Applicability of Second Schedule in the present scenario:

B By Act 54 of 1994, Section 163-A – Special Provisions as to payment of compensation on structured formula basis has been inserted with effect from 14.11.1994. Section 163-A envisages that notwithstanding any contained in the Act or in any other law or instrument having the force of law, the owner of the motor vehicle shall be liable to pay in the case of death or permanent disablement due to accident arising out the use of motor vehicle, compensation as indicated in the second schedule, to the legal heirs or the victim, as the case may be

C
D The purpose of Section 163-A and the Second Schedule is to avoid long-drawn litigation and delay in payment of compensation to the victims or his heirs who are in dire need of relief.

E Sub-section(2) of Section 163-A envisages that the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

F Sub-section (3) of Section 163-A envisages that the Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the second schedule, which is as follows:

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**1[THE SECOND SCHEDULE
(See section 163A)**

SCHEDULE FOR COMPENSATION FOR THIRD PARTY FATAL ACCIDENTS/ INJURY CASES CLAIMS.

1. Fatal Accidents:

Annual Income		Rs. 3000	Rs. 4200	Rs. 5400	Rs. 6600	Rs. 7800	Rs. 9000	Rs. 10200	Rs. 11400	Rs. 12000	Rs. 18000	Rs. 24000	Rs. 36000	Rs. 40000
AGE OF VICTIM	MULTIPLIER	(RUPEES IN THOUSANDS) (compensation in case of death)												
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Up to 15 yrs.	..15	60	84	108	132	156	180	204	228	240	360	480	720	800
Above 15 yrs. but not exdg. 20 yrs.	..16	57	79.8	102	125.4	148.2	171	193.8	216.6	228	342	456	684	760
Above 20 yrs. but not exdg. 25 yrs.	..17	54	75.6	97.2	118.8	140.4	162	183.6	205.2	216	324	432	648	720
Above 25 yrs. but not exdg. 30 yrs.	..18	51	71.4	91.8	112.2	132.6	153	173.4	193.8	204	306	408	612	680
Above 30 yrs. but not exdg. 35 yrs.	..17	50	67.2	86.4	105.6	124.8	144	163.2	192.4	192	288	384	576	640
Above 35 yrs. but not exdg. 40 yrs.	..16	50	63	81	99	117	135	153	171	180	270	380	540	600
Above 40 yrs. but not exdg. 45 yrs.	..15	50	58.8	75.6	92.4	109.2	126	142.8	159.6	168	252	336	504	560

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Above 45 yrs. but not exdg. 50 yrs.	..13	50	50.4	64.8	79.2	93.6	108	122.4	136.8	144	216	286	432	480
Above 50 yrs. but not exdg. 55 yrs.	..11	50	50	54	66	78	90	102	114	120	180	240	360	400
Above 55 yrs. but not exdg. 60 yrs.	..8	50	50	50	52.8	62.4	72	81.6	91.2	96	114	192	286	320
Above 60 yrs. but not exdg. 65 yrs.	..5	50	50	50	50	50	54	61.2	68.4	72	108	144	216	240
Above 65 yrs.	..5	50	50	50	50	50	50	51	57	60	90	120	180	200

Note- The amount of compensation so arrived at in the case of fatal accident claims shall be reduced by 1/3rd in consideration of the expenses which the victim would have incurred towards maintaining himself had he been alive.

1. Ins. by Act 54 of 1994, Sec. 64 (w.e.f. 14-11-1994).
2. Amount of compensation shall not be less than Rs.50,000.
3. General Damages (in case of death):

The following General Damages shall be payable in addition to compensation outlined above:-

- | | |
|---|--------------|
| (i) Funeral expenses | -Rs. 2,000/- |
| (ii) Loss of Consortium, if beneficiary is the spouse | -Rs. 5,000/- |
| (iii) Loss of Estate | -Rs. 2,500/- |
| (iv) Medical Expenses –actual expenses incurred — | |

- before death supported by bills/vouchers but not exceeding -Rs.15,000/-
4. General Damages in case of injuries and Disabilities:
- (i) Pain and Sufferings
 - (a) Grievous injuries - Rs. 5,000/-
 - (b) Non-grievous injuries - Rs. 1,000/-
 - (ii) Medical expenses – actual expenses incurred supported by bills/Vouchers but not exceeding as one time payment - Rs. 15,000/-

5. Disability in non-fatal accidents:

The following compensation shall be payable in case of disability to the victim arising out of non- fatal accidents:-
 Loss of income, if any, for actual period of disablement not exceeding fifty two weeks.)
 PLUS either of the following :-

- (a) In case of permanent total disablement the amount payable shall be arrived at by multiplying the annual loss of income by the Multiplier applicable to the age on the date of determining the compensation, or
- (b) In case of permanent partial disablement such percentage of compensation which would have been payable in the case of permanent total disablement as specified under item (a) above.

Injuries deemed to result in Permanent Total Disablement/Permanent Partial Disablement and percentage of loss of earning capacity shall be as per Schedule 1 under Workmen's Compensation Act, 1923.

6. Notional income for compensation to those who had no income prior to accident:

Fatal and disability in non-fatal accidents:

- (a) Non-earning persons -Rs.15,000 p.a.
- (b) Spouse -Rs.1/3rd of income of the earning/surviving spouse.

In case of other injuries only "general damage" as applicable.]”

A 40. Perusal of Second Schedule shows that the legal heirs
of the deceased person having an annual income, minimum
Rs.3,000/- and maximum Rs.40,000/- could only derive benefit
under Section 163A of the Act, 1988. Legal heirs of the
deceased person whose income is more than Rs.40,000/- per
annum i.e. approximately Rs.3,600/- per month cannot derive
B advantage of the Second Schedule. The largest multiplier
envisaged is 18 in the case of victim "above 25 years of age"
but not exceeding 30 years". The multiplier for the higher age
is required to be re-looked in view of increase in life
C expectancy.

41. A minimum amount of compensation of Rs.50,000/-
was fixed under Second Schedule in the year 1994. In addition,
general damages in lieu of funeral expenses, loss of consortium
(if beneficiary is the spouse), medical expenses, pain and
D suffering, grievous injuries, non-grievous injuries, etc. are also
provided for. But no revision was made to these amounts in
these 19 years.

42. In view of non-amendment of Second Schedule for 19
years, the appellant has also questioned the validity of the
E existing Second Schedule.

43. Several anomalies exist in the Second Schedule and
the said anomalies were first noticed as early as in the year
1996 in *U.P. State Road Transport Corporation & Ors. v.*
Trilok Chandra & Ors. (1996) 4 SCC 362 wherein this Court
F held that the table in Second Schedule suffers from several
defects and cannot be used as a ready recknor and observed
as follows:

G "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 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
H item the multiplier is 16 and the annual income is Rs

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9000; the total should have been Rs 1,44,000 but is 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 dependant on the age of the deceased. For example, if the deceased, a bachelor, dies at the age of 45 and his dependants 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."

44. Again this Court in *Oriental Insurance Co. Ltd. v. Hansrajbhai V. Kodala* (2001) 5 SCC 175 held that there is a specific provision under Section 163-A(3) of the Act, 1988 which require that the Central Government keeping in view the cost of living by notification in Official Gazette from time to time amend the Second Schedule and held:

"26. In addition, the learned counsel also pointed out that in case of a fatal accident and disability in a non-fatal accident, it has been provided that notional income for the claimant who had no income prior to the accident shall be Rs 15,000 per annum and still, however the Second Schedule provides table of income ranging from Rs 3000 to Rs 40,000 and the break-up also does not provide any calculation for Rs 15,000, as the columns

A *in the Schedule inter alia provide for compensation for*
a person having income of Rs 12,000, and thereafter
straight away at Rs 18,000. The learned counsel also
 B *submitted that despite the specific provision in Section*
163-A(3) that the Central Government may, keeping in
view the cost of living, by notification in the Official
Gazette from time to time amend the Schedule, nothing
has been done so far. Further, by order dated 30-8-2000,
 C *this Court again noticed a number of anomalies in the*
Second Schedule and, therefore, thought it fit to have
assistance of either the Attorney General of India or the
Solicitor General of India. When the matter was called out
on 15-12-2000, Mr Altaf Ahmed, ASG, stated before the
 D *Court that the order passed by this Court on 30-8-2000*
has already engaged serious attention of the Ministry of
Surface Transport Department and the Government was
considering the matter for bringing necessary correction
in the Second Schedule of the Motor Vehicles Act.
Thereafter, we again sought assistance of the Additional
 E *Solicitor General on the interpretation of Section 163-A*
and also to verify whether there are corrections in the
Second Schedule. Learned Additional Solicitor General
stated that amendment might take some time. In this
 F *view of the matter, we think it would be appropriate if the*
Central Government takes necessary action as early as
possible under Section 163-A(3)."

G 45. *In Deepal Girishbhai Soni (supra) this Court having*
regard to inflation and fall in rate of bank interest observed
that it is desirable that the Central Government bestows
serious consideration to amend the Second Schedule and
made following observation:

H "72. *Section 163-A was introduced in the year 1994. The*
executive authority of the Central Government has the
requisite jurisdiction to amend the Second Schedule
from time to time. Having regard to the inflation and fall

in the rate of bank interest, it is desirable that the Central Government bestows serious consideration to this aspect of the matter.” A

46. Discrepancies/errors in the multiplier scale given in the Second Schedule were also noticed in the case of **Sarla Verma**. Para 35 and 36 of the judgment in **Sarla Verma** is quoted hereunder: B

“35. 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 and 5 instead of 20, 19, 18, 17, 16, 15, 14, 12, 10, 8, 6 and 5. C D

36. 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 12,000. This leads to an anomalous position in regard to applications under Section 163-A of the 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.” E F G

In spite of assurance by the Central Government to the Court, no change is brought in the Second Schedule keeping

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48. Mr. P.P. Malhotra, learned Amicus Curiae produced a table relating to "Minimum Support Price for food grains according to crop year (Fair Average Quality)". Second Schedule of Act, 1988 came into effect from 14th November, 1994. If the Minimum Support Price for food grains of the year 1994-1995 is compared with the Minimum Support Price for the year 2011-2012 the resulting figures come as follows:-

Table 25: Minimum Support Price for Foodgrains According to Crop Year (Fair Average Quality)

(Rs. per quintal)

Year	Paddy common	Coarse cereals	Wheat	Gram	Arhar (Tur)	Moong	Urad
1	2	3	4	5	6	7	8
1994-95	340	280	360	670	760	760	760
1995-96	360	300	380	700	800	800	800
2010-11	1000	880	1120	2100	3000	3170	2900
2011-12	1080	980	-	-	3200	3500	3300

Percentage increase in price of food grains since 1991-92 has been shown as under:-

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PERCENTAGE INCREASE IN PRICE OF FOODGRAINS SINCE 1991-92

Year	Paddy Common	Percentage Increase since 1991-92	Coarse cereals	Percentage Increase since 1991-92	Wheat	Percentage Increase since 1991-92	Gram	Percentage Increase since 1991-92	Arhar (Tur)	Percentage Increase since 1991-92	Moong	Percentage Increase since 1991-92	Urad	Percentage Increase since 1991-92
1991-92	230	-	205	-	280	-	500	-	545	-	545	0	545	0
1992-93	270	17	240	17	330	18	600	20	640	17	640	17	640	17
1993-94	310	35	260	27	350	25	640	28	700	28	700	28	700	28
1994-95	340	48	280	37	360	29	670	34	760	39	760	39	760	39
2010-11	1000	335	880	329	1120	300	2100	320	3000	450	3170	482	2900	432
2011-12	1080	370	980	378	-	-	-	-	3200	487	3500	542	3300	506

(Figures in Rupees per quintal)

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Minimum Support Price for non-foodgrains according to crop year (Fair Average Quality) has been brought to our notice which is as follows:

Table 26 : Minimum Support Price for Non-Foodgrains According to Crop Year (Fair Average Quality)

(per quintal)									
Year	Sugar-cane	Cotton	Jute	Ground-nut (in shell)	Soya-been black	Soya-been yellow	Sun-flower seed	Rape-seed Mustard	Saf-flower
1	2	3	4	5	6	7	8	9	10
1991-92	26.00	840.00	375.00	645.00	395.00	445.00	670.00	670.00	640.00
1992-93	31.00	950.00	400.00	750.00	475.00	525.00	800.00	760.00	720.00
1993-94	34.50	1050.00	450.00	800.00	525.00	580.00	850.00	810.00	760.00
1994-95	39.10	1200.00	470.00	860.00	570.00	650.00	900.00	830.00	780.00
1995-96	42.50	1350.00	490.00	900.00	600.00	680.00	950.00	860.00	800.00
2010-11	139.12	3000.00	1575.00	2300.00	1400.00	1440.00	2350.00	1850.00	1800.00
2011-12	139.12	3300.00	1600.00	2700.00	1650.00	1690.00	2800.00		

Percentage increase in price of non-foodgrains in the year 1991-92, 1992-93, 1994-95 and 2011-12 has been shown as

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under:-

PERCENTAGE INCREASE IN PRICE OF NON-FOODGRAINS SINCE 1991-92														
Year	Sugar-cane	Percentage Increase since 1991-92	Cotton cereals	Percentage Increase since 1991-92	Jute	Percentage Increase since 1991-92	Ground nut in shell	Percentage Increase since 1991-92	Soya-been black	Percentage Increase since 1991-92	Soya-been yellow	Percentage Increase since 1991-92	Sun-flower Seed	Percentage Increase since 1991-92
1991-92	26	0	840	0	375	0	645	0	395	0	445	0	670	0
1992-93	31	19	950	13	400	7	750	16	475	20	525	18	800	19.40
1993-94	34.50	33	1050	25	450	20	800	24	525	33	580	30	850	26.87
1994-95	39.10	50	1200	43	470	25	860	33	570	44	650	46	900	34.33
2011-12	139.12	435	3300	293	1600	327	2700	319	1650	318	1690	280	2800	317.91

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We are not comparing the average price of gold and silver in domestic and foreign markets as increased since 1994-95 till 2011-12.

49. The rates of minimum wages, annual income as per rates of minimum wages, dependency actual income – 1/4th of annual income etc. has been shown in a chart, relevant portion of which is as follows:

ILLUSTRATION

Compensation granted to the dependants (assuming to be his wife, mother and two children) of an unskilled aged under 25 years in the year 1990:

Annual income as per rate of minimum wages = Rs.9360

Annual dependency as in the year = 1/4th of Rs.9360 = Rs.7020

Compensation granted to the dependants based on the judgment 'Sarla Verma vs. DTC' = Annual dependency X Multiplier applicable in the age group '20-25 years' i.e. 18 = Rs 7020 X 18 = Rs.126360

STATE – DELHI

Year	Rate of minimum wages	Annual income as per rate of minimum wages	Balance Compensation (Remaining compensation Dependency interest received)	Dependency (annual income – 1/4th of annual income)	rate of interest	Interest received
1990	780	9360	126360 (compensation granted)	7020	10%	11934
1994	1401	16812	148371	12609	10%	13576
1995	1520	18240	149338	13680	11.60%	15736
2010	5278	63336	-	47502	7.50%	-
2011	6443.667	77324	-	57993	9%	-

A The aforesaid charts have been prepared by learned Amicus Curiae.

50. Learned Amicus Curiae also produced a copy of the "Family Welfare Statistics in India 2011" published by Statistics Division, Ministry of Health and Family Welfare, Government of India. Therein the expectation of life at birth has been shown at Table – A.12 and the same is quoted below:

**"Table – A.12
EXPECTATION OF LIFE AT BIRTH**

Census Year		Male	Female
1		2	3
1901-10	(a)	22.6	23.3
1911-20		19.4	20.9
1921-30		26.9	26.6
1931-40		32.1	31.4
1941-50		32.4	31.7
1951-60		41.9	40.6
1961-70		46.4	44.7
1970-75	(b)	50.5	49.0
1976-80		52.5	52.1
1981-85		55.4	55.7
1986-90		57.7	58.1
1991-96		60.6	61.7
1996-01	(c)	62.3	65.3
2001-05	(d)	63.8	66.1
2006-10		65.8	68.1
2011-15		67.3	69.6
-2016-20		68.8	71.1
2021-25		69.8	72.3

51. Considering the current trend of inflation cost of food grains and all other items, Mr. P.P. Malhotra, Senior Advocate, Amicus Curiae submitted that for just compensation the multiplier should be enhanced to 24-25 years. Further, according to him, while calculating the compensation, the amount payable towards dependency should be increased as the life expectancy is upto 70-75 years and secondly after 10 years of earning capacity it should be doubled in view of escalation of cost of living and progressive increase in the income.

52. Keeping in view the cost of living, the Central Government is required to amend the Second Schedule [See Section 163A (3)]. The Second Schedule was enacted by Act 54 of 1994 w.e.f. 14th November, 1994. Now more than 19 years have passed but no amendment has been made. Cost of living has gone up many fold.

53. In view of finding recorded above, we hold that Second Schedule as was enacted in 1994 has now become redundant, irrational and unworkable, due to changed scenario including the present cost of living and current rate of inflation and increased life expectancy.

54. A letter dated 5th December, 2012 issued by the Joint Secretary, Ministry of Road Transport & Highways, New Delhi has been brought to our notice by Mr. P.P. Malhotra. Giving reference to the present case therein, the officer has informed that the Motor Vehicles (Amendment) Bill, 2012, inter alia, to amend Section 163A of the Motor Vehicles Act, 1988 was passed by the Rajya Sabha on 8th May, 2012. The said Bill proposes to substitute Section 163-A(3) of the Act by empowering the Central Government to revise the amount or the multiplier specified in the Second Schedule after every three years and furthermore, the Bill also seeks to substitute the Second Schedule so as to provide that for death of non-earning persons, a fixed compensation of Rs.1,00,000 for children up to 5 years of age and Rs.1,50,000/- for persons more than 5 years of age. It is informed that though the Bill has been passed by the Rajya Sabha and it is still pending consideration before the Lok Sabha for its approval. The letter dated 5th December, 2012 reads as follows:

A "No. RT-11021/19/2012-MVL Dated December 5th, 2012

Sub:- Special Leave Petition (Civil) No.4639 of 2010 filed by Puttamma & Ors. v. K.L. Narayana Reddy & Anr. before the Supreme Court of India.

B Sir,

Kindly refer to your D.O. letter No.117/Gen/ASG(PPM)/2012 dated 29th November, 2012 regarding SLP(C) No.4639 of 2010 titled as Puttamma & Ors. v. K.L. Narayana Reddy & Anr. before the Supreme Court of India.

C

2. In this connection, I am to inform that the Motor Vehicles (Amendment) Bill, 2012, inter alia, to amend Section 163A of Motor Vehicles Act, 1988, was passed by Rajya Sabha on 8.5.2012. The said Bill proposes to substitute Section 163A(3) of the Act by the following section:

D

"The Central Government keeping in view the cost of living and the rise in the price index, may, by notification in the Official Gazette, revise the amount or the multiplier specified in the Second Schedule after every three years."

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2.1. Furthermore, the Bill also seeks to substitute the Second Schedule so as to provide that for death of non-earning persons, a fixed compensation shall be payable as under:-

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(i) Rs.1,00,000 for children up to 5 years of age

(ii) Rs.1,50,000/- for persons more than 5 years of age. The minimum amount payable is sought to be revised to Rs.1,00,000.

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2.2. The following steps have been proposed for working out compensation:-

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(a) The proven annual income of the victim is to be worked out:

(b) *Appropriate multiplier (higher of the multiplier based on the age of the victim and the age of the surviving/dependent parents/spouse/children) to be applied:* A

(c) *Multiply the proven annual income by the appropriate multiplier to arrive at compensation amount, subject to following, namely:-* B

(i) *The amount of compensation payable for Permanent Total Disablement as defined in Schedule 1 of the Workmen's Compensation Act, 1923 (8 of 1923) shall be determined by application of appropriate multiplier to proved income, subject to maximum of Rs.10 lakhs.* C

(ii) *The amount of compensation so arrived shall be reduced by 1/3rd in respect of fatal accidents (reduction of 1/3rd represents living expenses for deceased person, had he been alive)* D

2.4. *The Bill is presently pending in Lok Sabha.*

3. *You are requested to place the above facts before the Hon'ble Supreme Court of India. Further development in this matter may please be intimated to this Ministry.* E

Yours sincerely,

(Sanjay Bandopadhyaya)

*Shri P.P. Malhotra,
Additional Solicitor General of India,
Supreme Court of India,
57 Lodhi Estate,
New Delhi - 110003."* F

55. *From the proposed Bill we find that there is a proposal to change the multiplier applicable for different age groups; it does not contemplate schedule structure of compensation. The factors to be considered for working out compensation are (a) age of the victim (b) multiplier (c) annual income up to Rs.1,00,000/- (the maximum annual income for calculation of compensation will be deemed to be Rs.1,00,000/-even if the* G

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A income exceeds Rs.1,00,000/-). Separate provisions have been made for grievous injury and non-grievous injury etc.

56. The Central Government was bestowed with duties to amend the Second Schedule in view of Section 163-A(3), but it failed to do so for 19 years in spite of repeated observations of this Court. For the reasons recorded above, we deem it proper to issue specific direction to the Central Government through the Secretary, Ministry of Road Transport & Highways to make the proper amendments to the Second Schedule table keeping in view the present cost of living, subject to amendment of Second Schedule as proposed or may be made by the Parliament. Accordingly, we direct the Central Government to do so immediately. Till such amendment is made by the Central Government in exercise of power vested under sub-section (3) of Section 163A of Act, 1988 or amendment is made by the Parliament, we hold and direct that for children upto the age of 5 years shall be entitled for fixed compensation of Rs.1,00,000/- (rupees one lakh) and persons more than 5 years of age shall be entitled for fixed compensation of Rs.1,50,000/- (rupees one lakh and fifty thousand) or the amount may be determined in terms of Second Schedule whichever is higher. Such amount is to be paid if any application is filed under Section 163A of the Act, 1988.

Grant of Interest

57. Section 171 of the Act, 1988 deals with the award of interest where any claim is allowed, it reads as follows:

“171. Award of interest where any claim is allowed.- Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.”

Under the said provision no rate of interest has been fixed and its duty is bestowed upon the Tribunal to fix the rate of interest.

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58. The rate of interest provided and granted under different Acts is as under: A

(a) The Section 4 (A) (3) of the Workmen's Compensation Act, 1923 provides payment of interest @12% per annum or at such higher rate not exceeding the maximum of the lending rate of the scheduled banks for the delayed payment of compensation. B

(b) The Consumer Protection Act even though provides no provision for grant of interest, this Court has granted interest by invoking Section 3 of the Interest Act and Section 34 of the CPC and has awarded interest @ 12% to 18% for delayed payment. C

(c) The Land Acquisition Act provides for the interest for delayed payment @ 9% for the first year and 15% for the rest of the years. D

(d) The Arbitration and Conciliation Act, 1996 provides for interest @ 18% per annum under Section 31(7) of the Act.

59. This Court in *Kaushnuma Begum v. New India Assurance Co. Ltd. & Ors.* (2001) 2 SCC 9 noticed that the Nationalized Banks are granting interest @ 9% on fixed deposit for one year and held as follows: E

"24. Now, we have to fix up the rate of interest. Section 171 of the MV Act empowers the Tribunal to direct that "in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as may be specified in this behalf". Earlier, 12% was found to be the reasonable rate of simple interest. With a change in economy and the policy of Reserve Bank of India the interest rate has been lowered. The nationalised banks are now granting interest at the rate of 9% on fixed deposits for one year. We, therefore, direct that the compensation amount fixed hereinbefore shall bear interest at the rate of 9% per annum from the date of the claim made by the appellants. The amount of Rs 50,000 F
G
H

A *paid by the Insurance Company under Section 140 shall be deducted from the principal amount as on the date of its payment, and interest would be recalculated on the balance amount of the principal sum from such date."*

B 60. This Court in *Abati Bezbaruah v. Deputy Director General, Geological Survey of India & Anr.* (2003) 3 SCC 148 noticed that varying rate of interest is being awarded by the Tribunals, High Courts and this Court. In the said case, this Court held that the rate of interest must be just and reasonable depending on the facts and circumstances of the case and should be decided after taking into consideration relevant factors like inflation, change in economy, policy being adopted by the Reserve Bank of India from time to time, how long the case is pending, loss of enjoyment of life etc.

C 61. In *Supe Dei v. National Insurance Co. Ltd. & Anr.* (2009) 4 SCC 513 this Court held that proper interest would be 9% per annum.

D 62. In view of the aforesaid provisions of the Act, 1988 (Section 171) and the observation of this Court, as noticed above, we keep this question open for Tribunals and Courts to decide the rate of interest after taking into consideration the rate of interest allowed by this Court in similar case and other factors such as inflation, change in economy, policy adopted by the Reserve Bank of India from time to time and the period since when the case is pending.

F **Present Case**

63. In the present case, the following fact emerges:

G The deceased was drawing gross salary of Rs. 13,331/- per month and he was paying a sum of Rs.789/- per month towards income tax and an amount of Rs. 100/- per month towards professional tax. Thus he was paying total amount of Rs.889/- per month towards tax and if that amount is deducted from the gross income of the deceased it comes to Rs.12,442/- per month.

H

The deceased was 48 years old at the time of death. He would have continued in service for another 12 years and he would have been entitled for pension. Therefore, if increase in the future income is taken at 50% it will come to Rs.18,663/- (Rs.12,442/- + Rs. 6221).

As per decision in '*Sarla Verma*' the deduction towards personal and living expenses of the deceased should be one-third (1/3rd) where the number of dependent family members is 2 to 3; one-fourth (1/4th) where the number of dependent family members is 4 to 6 and one-fifth (1/5th) where the number of dependent family members exceeds 6. In the present case, there are four dependent family members. Therefore, the deduction towards personal and living expenses of the deceased should be 1/4th. If 1/4th amount is deducted from the income of the deceased it will come to Rs.13,998/- (Rs. 12,442/- + Rs. 6,221 - Rs. 4665).

At the time of accident, the deceased was 48 years old, hence on the basis of decision in '*Sarla Verma*' multiplier of 13 will be applicable. In that case the claimants should be entitled to get the following benefits:

- | | | | |
|-------|---|-----------------------|---|
| (i) | Amount of compensation with 12 months salary and 13 as multiplier (13,998/- x 12 x 13) | Rs. 21,83,688/- | E |
| (ii) | Compensation to the family members (children and family members other than wife) for loss of love and affection, deprivation, of protection social security etc. | Rs. 1,00,000/- | F |
| (iii) | Compensation to the widow of the deceased for loss of love and affection, pains and sufferings, loss of consortium, deprivation of protection, social security etc. | Rs. 50,000/- | G |
| (iv) | Cost incurred on account of funeral and ritual expenses | Rs. 10,000/- | |
| | Total Compensation | Rs.23,43,688/- | H |

A 64. In the appeal which was filed by the claimants before
 the High Court, the High Court instead of deciding the just
 compensation allowed meager enhancement of compensation.
 In doing so, the High Court introduced the concept of split
 multiplier and departed from the multiplier system generally
 B used in light of the decision in *Sarla Verma* (supra) case
 without disclosing any reason. The High Court has also not
 considered the question of prospect of future increase in salary
 of the deceased though it noticed that the deceased would
 have continued in pensionable services for more than 10 years.
 C When the age of the deceased was 48 years at the time of
 death it wrongly applied multiplier of 10 and not 13 as per
 decision in '*Sarla Verma*'. Thus, we fail to appreciate as to why
 the High Court chose to apply split multiplier and applied
 multiplier of 10. We, thus, find that the judgment of the High
 Court is perverse and contrary to the evidence on record and
 D is fit to be set aside for having not considered the future
 prospects of the deceased and also for adopting split multiplier
 method against the law laid down by this Court. In view of our
 aforesaid finding, we hold that the judgment of the High Court
 deserves to be set aside. We, accordingly, set aside the
 E impugned judgment and hold that the claimants are entitled for
 total compensation of **Rs.23,43,688/-**. They shall also get
 interest on the enhanced compensation at the rate of 12% per
 annum from the date of filing of the complaint petition.
 Respondent No.2-Insurance Company is directed to pay
 enhanced/additional compensation and interest to the
 F claimants within a period of three months by getting prepared
 a demand draft in their name.

G 65. The Insurance Company is directed to submit its
 compliance report in the Registry of the High Court of
 Karnataka at Bangalore; the Registry shall place the same
 before an appropriate Bench for perusal. If the Bench finds that
 the Insurance Company has failed to comply with the directions
 contained in this judgment, it will be open to the Bench to initiate
 action against the officers of the Company. The appeal is
 allowed with aforesaid observations and directions.