

(14) For the reasons recorded above, these writ petitions fail and are dismissed; but in the circumstances of the case, I make no order as to costs.

S. S. Sandhawalia, C.J.—I agree.

S. C. Mital, J.—I agree.

N. K. S.

FULL BENCH

Before S. S. Sandhawalia, C.J., S.C. Mital, D. B. Lal, Harbans Lal and S. P. Goyal, JJ.

LACHHMAN SINGH and others,—Appellants.

versus

GURMIT KAUR ETC.—Respondents.

Regular First Appeal No. 336 of 1964.

October 12, 1978.

*Fatal Accidents Act (XII of 1855)—Sections 1-A and 2—Fatal accidents—Assessment of quantum of damages—Principles stated—Grant of solatium by way of compensation—Whether permissible—Method of multiplying annual dependency by suitable multiplier—Whether to be adopted—Suitable multiplier—Determination of—Interest theory—Whether a correct basis to determine compensation.*

*Held*, that the following principles be observed and followed while assessing compensation in cases of fatal accidents:—

- (1) The compensation to be assessed is the pecuniary loss caused to the dependents by the death of the person concerned, and no compensation is to be assessed on any extraneous consideration like love, affection, mental agony or any such similar consideration. Solatium is alien to the concept of compensation.
- (2) For the purpose of calculating the just compensation, annual dependency of the dependents should be determined in terms of the annual loss accruing to them due to the

abrupt termination of life. For this purpose, annual earning of the deceased at the time of the accident and the amount out of the same which he was spending for the maintenance of the dependents will be the determining factor. This basic figure will then be multiplied by a suitable multiplier ;

- (3) The suitable multiplier, as referred to in 2 above, shall be determined by taking into consideration the number of years of the dependency of the various dependents, the number of years by which the life of the deceased was cut short and the various imponderable factors such as early natural death of the deceased, his becoming incapable of supporting the dependents due to illness or any other natural handicap or calamity, the prospects of the remarriage of the widow, the coming of age of the dependents and their developing their independent sources of income as well as the pecuniary benefits which might accrue to the dependents on account of the death of the person concerned. Such benefits, however, should not include the amount of the insurance policy of the deceased to which the dependents may become entitled on account of its maturity as a result of the death.
- (4) The method of multiplying the amount of the annual loss to the dependents with the number of years by which the life has been cut short without anything else cannot be sustained.
- (5) The compensation cannot be assessed on the basis of the so-called interest theory as the same provides the dependents with the capital as well as the amount of annual loss earned by way of interest and it also suffers from a number of other defects, and
- (6) Considerations of evergrowing inflation and the decrease in the money value are also not relevant for the purpose of assessment of compensation. (Para 27).

*Held*, that the interest theory ought not be made the basis of determining the quantum of compensation due to the claimants. In the present day India when our economy is not so highly developed as in western countries and the banking system has not taken deep roots especially in the villages, it is too unrealistic to adopt interest theory for determining the damages. In a large number of villages, there are neither any banks nor are the people accustomed to make investments therein. Besides, bank interest rates are not stable and static and the same go on fluctuating in view of the inflationary trends in the economy. As inflation in course of time becomes an essential part of the economy, the banks, in order to mop up the surplus money in the hands of the people, contrived of the inducement to pay higher rates of interest and these rates have been going up from time to time. The adoption of interest theory presumes that the claimant will invest the amount of claim in the bank which will ensure the amount of monthly

dependency. In this manner, the claimants while getting the monthly interest will also be having the capital invested in the bank as intact. This may be a ground for further reduction in the total amount of compensation. Interest theory, therefore, is impracticable and unrealistic and will not be a proper yardstick for determining the correct amount of compensation. (Para 21).

*Damyanti Devi and others v. Sita Devi and others*, 1972, A.C.J. 334;

*Jaswant Kaur and others v. Ratti Ram and others*, 1971, A.C.J. 31;

*Parvani Devi v. The State of Haryana and others*, 1973, A.C.J. 531;

*State of Haryana and another v. Lt. Col. Balbir Singh Hooda*, 1975  
A.C.J. 1;

*Sukhdev Raj Jain and others v. Shanti Devi and others*, 1975 A.C.J.  
246;

*Surjit Singh and another v. The Co-operative General Insurance  
Society Ltd.*, 1974, P.L.R. 353  
OVERRULED.

*Jagir Kaur and others v. M/s. Uttam Singh Chattar Singh and others*,  
1975, A.C.J. 26  
DISSENTED FROM.

*Vanguard Insurance Co. Ltd. and another v. Smt. Naresh Kanta and  
others*, 1977, P.L.R. 328  
MODIFIED.

Case referred by Division Bench consisting of Hon'ble the Chief Justice Mr. S. S. Sandhawalia and Hon'ble Mr. Justice S. P. Goyal, on September 20, 1977 to a larger Bench for decision of an important question of law involved in the case. The Larger Bench consisting of Hon'ble the Chief Justice Mr. S. S. Sandhawalia, Hon'ble Mr. S. C. Mital, Hon'ble Mr. Justice D. B. Lall, Hon'ble Mr. Justice Harbans Lal and Hon'ble Mr. Justice S. P. Goyal, finally decided the case on 12th October, 1978.

Regular First Appeal from the decree of the Court of Shri Ranjit Singh Sood, Sub-Judge 1st Class, Jullundur dated the 15th day of July, 1964 granting a decree for rupees 22,500 in favour of the plaintiffs against the defendants, with proportionate costs. The court fees upto Rs. 22,500 will be paid by the defendants. The balance of the court fees amount leviable on the plaint will be paid by the plaintiffs and will be a first charge on any amount of the decree realised by the plaintiffs from the defendants.

B. S. Jawanda, Advocate with Maharaj Baksh Singh, Advocate, for the appellants.

N. K. Sodhi, Advocate and K. T. S. Tulsi, Advocates, for the Respondents.

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**JUDGMENT**

*Harbans Lal, J.*

(1) The subject-matter of the present reference is important but quite baffling a question, as to how the damages should be quantified which the offender, who is held responsible for terminating prematurely the life of another person by his culpable act, negligence or default is liable to pay to the legal representatives or the dependants of the deceased or, in other words, the determination of the amount of compensation which the legal representatives or dependants are entitled to get from such offender.

(2) The injured person, who was the victim of any injury at the hands of another person which resulted in permanent or temporary incapacity causing thereby some loss of earning, has always been held to be entitled to get damages against the offender under the law of torts, but there was no specific provision for getting damages before 1855 in India if such injury resulted in the death of the injured person, nor was there any legal provision as to who will be entitled to get the damages or the compensation in such a contingency. The India Fatal Accidents Act, 1855 (hereinafter to be called the Act), for the first time provided for such damages or compensation and also enumerated the parties entitled to the same in section 1A of the Act, which is reproduced below:—

“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 of suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime. 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, 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."

Section 2 similarly provides for the recovery of pecuniary loss to the estate of the deceased in an action or a suit by the executor, administrator, or the representative of the deceased. The preamble of the Act which gives the background and the purpose for enacting the legislation is to the following effect:—

"An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong."

(3) The Motor Vehicles Act, 1939, also provided for compensation arising out of the fatal accidents by motor vehicles, in sections 110-A and 110-B. Under those Provisions all claims are to be decided by the claims tribunal, but no specific guidelines have been enacted for determining the amount of compensation. These only enable the claims tribunal to 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." It is provided under section 110-A that the application for compensation should be made by or on behalf of all the legal representatives of the deceased.

(4) However, section 1A of the Act is more detailed and exhaustive inasmuch as it has specified the claimants being the wife, husband, parent, and the child. It has also been provided that the amount of damages which will be awarded, will be in proportion to the loss resulting from such death. However, determination of the amount of loss in suits or actions, from the death to the dependants has also been found to be quite a ticklish question by the Court when the cases involving the same come up before the Accidents Claims Tribunals or the Courts. As soon as the authority, whether the tribunal or the Court, is called upon to determine the loss resulting from premature termination of life on account of the fault or negligence of another person, naturally, the first question falling for determination is : what was the salary or earning of the

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deceased at the time of his premature death ? The other relevant matters for determination and adjudication are the life expectancy of the deceased by which the life has been out short, the age of the dependants, the prospects of increase in earnings, the contingency of the widow of the deceased remarrying and a host of other allied factors which may even come in the category of speculations or general estimates.

(5) Section 1 of the Act is, in substance, reproduction of the English Fatal Accidents Act, 1846 (9 and 10 Vict. C. 93), known as the Lord Campbell's Acts, the scope of which was under discussion by the House of Lords in *Davies v. Powell Duffryn Associated Collieries Ltd.*, (1) Lord Wright in his judgment while dealing with the question relating to the determination of the amount of wages which the deceased was earning, held:—

“There is no question here of what may be called sentimental damage, bereavement or pain and suffering. It is a hard matter of pounds, shillings and pence, subject to the element of reasonable future probabilities. The starting point is the amount of wages which the deceased was earning, the ascertainment of which to some extent may depend on the regularity of his employment. Then there is an estimate of how much was required or expended for his own personal and living expenses. The balance will give a datum or basic figure which will generally be turned into a lump sum by taking a certain number of years' purchase. That sum, however, has to be taxed down by having due regard to uncertainties, for instances, that the widow might have again married and thus ceased to be dependant, and other like matters of speculation and doubt.”

According to Lord Russell, in the said case, the balance of loss and gain to the department by the death under question has to be determined. It was held as under:—

“The general rule which has always prevailed in regard to the assessment of damages under the Fatal Accidents Acts is well settled, namely, that any benefit accruing to a dependant by reason of the relevant death must be taken

into account. Under those Acts the balance of loss and gain to a dependant by the death must be ascertained, the position of each dependant being considered separately."

(6) In *Nance v. British Columbia Electric Railway Company Ltd.* (2), Viscount Simon was of the opinion that the claim to damages in cases of death fall under two separate heads; first, what sums the deceased would have probably applied out of his income to the maintenance of his wife and family if the deceased had not been killed and would have lived the full span of life; second, what would have been the additional savings which the deceased would or might have accumulated during the period he would have lived but for the premature death, which would probably have accrued to his wife and family. For the purpose of arriving at the correct assessment under these two heads, Viscount Simon laid down the following principles:

"Under the first head—indeed, for the purposes of both heads—it is necessary first to estimate what was the deceased man's expectation of life if he had not been killed when he was; (1st this be 'x' years) and next what sums during these x years he would probably have applied to the support of his wife. In fixing x, regard must be had not only to his age and bodily health, but to the possibility of a premature determination of his life by a later accident. In estimating future provision for his wife, the amounts he usually applied in this way before his death are obviously relevant, and often the best evidence available; though not conclusive since if he had survived, his means might have expanded or shrunk, and his liberality might have grown or wilted."

Their Lordships of the Supreme Court in *Gobald Motor Service Ltd. and another v. R. M. K. Valuswami and others* (2), relied upon the principles as enunciated and reproduced above in the two English cases. Therein, one passenger going in a bus was killed when the bus met with an accident. The victim was 34 years of age at the time of his death and his annual earning was estimated at Rs. 3,000. The

(2) 1951 A.C. 601.

(3) A.I.R. 1962 S.C. 1.

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suit for damages had been filed by his widow, father and his children. The Claims Tribunal had awarded a sum of Rs. 25,000 as compensation. The following principles as laid down by Viscount Simon in *Nance's case* (2 supra), were relied upon:

- (1) The deceased man's expectation of life has to be estimated keeping in view his age, his bodily health and the possibility of premature determination of his life by subsequent accident.
- (2) The amount required for the future provision of his wife should be estimated having regard to the amount the deceased used to spend on her during his life time.
- (3) This estimated annual sum should be multiplied by the number of years of the man's estimated span of life.
- (4) The said amount must be discounted so as to arrive at the correct equivalent in the form of lump sum payable on his death, after making deductions for the benefit accruing to the widow for the acceleration of her interest in the estate; and
- (5) Deduction should also be made for the possibility of the wife dying earlier if the husband had full span of his life and also for the possibility that in case the widow remarries, that may result in improvement of her financial position.

It was also held therein that any mode of estimation of damages has to take into account a number of imponderables. It was held,—

“The actual extent of the pecuniary loss to the respondents may depend upon data which cannot be ascertained accurately, but must necessarily be an estimate, or even partly a conjecture. Shortly stated, the general principle is that the pecuniary loss can be ascertained only by balancing on the one hand the loss to the claimants of the future pecuniary benefit and on the other any pecuniary advantage which from whatever source comes to them by reason of the death, that is, the balance of loss and gain to a dependant by the death must be ascertained.”



Their Lordships in the above case approved the award of Rs 25,000 and dismissed the appeal by the bus company for reduction of the amount. In the opinion of their Lordships, this sum would have been sufficient for the expenditure of the dependants for just over eight years and as such, it was held to be a "moderate sum rather a conservative estimate."

(7) In the *Municipal Corporation of Delhi v. Subhagwanti and others* (4), the Clock Tower in Chandni Chowk, Delhi, owned by the Municipal Corporation, had collapsed resulting in the death of three persons. Three separate suits had been filed by the dependants in each case. In one case, it was found that the deceased was spending about Rs 150 per mensem for the subsistence of his wife and children, and was 30 years of age at the time of the accident. His widow was aged 28 years and his son and two daughters' age ranged from 2 years to 14 years. A total compensation of Rs 27,000 was awarded by capitalising the yearly loss for a period of 15 years. Relying on the above referred to two decisions of the English Courts, this award was approved thus approving the principles of law laid down by Lord Wright in *Davies's case* (supra) that at first the basic figure regarding the annual loss to the dependants should be worked out and the same should be capitalised into a lump sum by taking a certain number of years' purchase. While doing so, regard has to be taken for the various possibilities including the one that the widow may remarry and then cease to be dependant. This method has been generally termed as a 'multiplier theory'.

(8) Though the basic principles regarding the annual earnings of the deceased and on that basis the estimate of the annual dependency of the dependants and thereafter working out the lump sum payable to the dependants by taking into consideration the various possibilities and uncertainties like widow remarrying, were laid down in the above mentioned two English cases, but the principle of arriving at the lump sum payable to the dependants by following the multiplier doctrine was not expressly laid down although the final amount payable was arrived at in terms of the annual dependency by multiplying the same by a number of years' purchase. However, in *Mallet v. McMonagle* (5), after taking into consideration all the previous decision, it was held as under by the Court of Appeal, Northern Ireland:

"Thus, the usual method in our Courts to arrive at Fatal Accidents Act damages is to settle on the basic annual figure

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(4) A.I.R. 1966 S.C. 1750.

(5) 1969 A.C.J. 312.

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of dependency and then apply a multiplier which affects to take care of the uncertainties and vicissitudes of life, also the fact that the widow is getting an immediate lump sum which can be invested."

When the appeal went before the House of Lords, Lord Diplock laid down the following principles for the purpose of working out the annual dependency, in paragraph 42:

"To assess the damages it is necessary to form a view on three matters each of which is in greater or less degree one of speculation: (i) the value of the material benefits for his dependants which the deceased would have provided out of his earnings for each year in the future during which he would have provided them had he not been killed; (ii) the value of any material benefits which the dependants will be able to obtain in each such year from sources (other than insurance) which would not have been available to them had the deceased lived but which will become available to them as a result of his death; (iii) the amount of the capital sum which with prudent management will produce annual amounts equal to the difference between (i) and (ii) (i.e., 'the dependency') for each of the years during which the deceased would have provided material benefits for the dependants had he not been killed."

The effect of inflation was also considered, but he was of the opinion that the same can be set off to some extent at any rate by prudent investment in buying a home, in growth stock, or in the short-term high-interest bearing securities. After considering the argument that along with the inflation the rate of bank interest had also been rising and the investment of the amount in bank was likely to produce enhanced income, he came to the following conclusions in paragraph 47:

"In my view, the only practicable course for Courts to adopt in assessing damages awarded under the Fatal Accidents Act is to leave out of account the risk of further inflation on the one hand and the high interest rates which reflect the fear of it and capital appreciation of property and equities which are the consequence of it on the other hand. In estimating the amount of the annual dependency in the future, had the deceased not been killed, money should be treated as retaining its value at the date of the judgment,

and in calculating the present value of annual payments which would have been received in future years, interest rates appropriate to times of stable currency such as 4 per cent to 5 per cent should be adopted."

According to the learned Judge, for the purpose of determining the multiplier to be applied to the annual dependency the factors like prospects of increase in wages, recession in trade, spells of unemployment, possibilities of the children beginning to earn when grown up, remarriage of the widow as well as the presence of the children diminishing the chances of remarriage have to be taken into consideration.

(9) In *Madhya Pradesh State Road Transport Corporation, Bairagarh v. Sudhakar and others* (6), one woman aged 22 years and one year's old son had died while travelling in a bus as a result of an accident. At the time of her death, she was a Physical Instructoress and drew Rs 190. Claim application had been filed by her husband. The tribunal assessed the monthly dependency to the husband at Rs 50 and awarded the sum of Rs 15,000 as compensation. In appeal, the High Court enhanced this amount to Rs 50,000. The Supreme Court in appeal against the decision affirmed the award of the tribunal by adopting 20 years multiplier. The principle regarding the application of multiplier doctrine as laid down in *Mallett's case* (supra) was approved and it was held,—

"A method of assessing damages, usually followed in England, as appears from *Mallet v. McMonagla* (supra), is to calculate the net pecuniary loss upon an annual basis and to arrive at the total award by multiplying the figure assessed as the amount of the annual 'dependency' by a number of 'year's purchase', that is, the number of years the benefit was expected to last, taking into the consideration the imponderable factors in fixing either the multiplier or the multiplicand. The husband may not be dependant on the wife's income, the basis of assessing the damages payable to the husband for the death of his wife would be similar. Here, the lady had 30 years of service before her when she died. We have found that the claimant's loss reasonably works out to Rs 50 a month, i.e., Rs 600 a year. Keeping

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(6) 1977 A.C.J. 290,

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in mind all the relevant facts and contingencies and taking 20 as the suitable multiplier, the figures comes to Rs 12,000. The Tribunal's award cannot, therefore, be challenged as too low though it was not based on proper grounds."

(10) In *Mrs. Munjushri Raha and others v. B. L. Gupta and others* (7), the deceased was 37 years of age who had died in the bus accident. His monthly salary was assessed at Rs 620. Award of the tribunal for Rs 60,0000 in favour of the widow and the children was affirmed by the High Court. In appeal by the claimants, the Supreme Court enhanced the amount from Rs 60,0000 to Rs one lac. According to their Lordships of the Supreme Court, the lower Courts while fixing the annual salary of the deceased as yearly dependency for the purpose of determining the lump sum to be awarded to the claimants, had not taken into account the salary which he would have earned while reaching the maximum of his grade long before his retirement. It was estimated that the deceased would have reached the maximum grade of Rs 900 at the age of 45 years before his superannuation. However, a close scrutiny of the entire judgment shows that the doctrine of multiplier for the purpose of capitalising the annual dependency was neither argued, nor considered.

(11) In *C. K. Subramania Iyer and others v. T. Kunhikuttan Nair and others* (8), a child of eight years was hit by a bus with the result that he sustained very serious injuries; was rendered unconscious and died in the hospital on the next morning. Claim application filed by the parents was allowed. The principles for assessing the damages were laid down as under:

"There can be no exact uniform rule for measuring the value of the human life and the measure of damages cannot be arrived at by precise mathematical calculations, but the amount recoverable depends on the particular facts and circumstances of each case. The life expectancy of the deceased or of the beneficiaries whichever is shorter is an important factor. Since the elements which go to make up the value of the life of the deceased to the designated beneficiaries are necessarily personal to each other, in the very nature of things, there can be no exact or uniform

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(7) 1977 A.C.J. 134.

(8) A.I.R. 1970 S.C. 376.

rule for measuring the value of human life. In assessing damages, the Court must exclude all considerations of matter which rest in speculation or fancy though conjecture to some extent is inevitable. As a general rule parents are entitled to recover the present cash value of the prospective service of the deceased minor child. In addition they may receive compensation for loss of pecuniary benefits reasonably to be expected after the child attains majority."

Its perusal shows that for the purpose of determination of damages not only the actual earning of the deceased at the time of his death is to be taken into consideration, but also the present cash value of the prospective earning of the deceased is also a relevant and essential factor.

(12) In *M/s. Sheikhpura Transport Co. Ltd. v. Northern India Transporters Insurance Co. Ltd. and another* (9), two persons Bachan Singh and Narinder Nath, aged 42 and 43 years respectively, travelling in a passenger bus died as a result of the accident to the bus. The owner and the driver of the bus were held liable to pay damages to the dependents claimants. Though the accidents tribunal assessed the monthly loss to the dependents at less amount, the High Court in appeal keeping in view the earning of the deceased, came to the conclusion that the monthly dependency in each case was Rs 200 and fixed the total amount of compensation by capitalising this amount on the basis of 15 years' purchase. This was challenged in appeals by the bus company and the insurance company. The same were dismissed. The following general principles of law as laid down in *Gobald Motor Service's case* (3) (supra) were reiterated:

"The general principle is that the pecuniary loss can be ascertained only by balancing on the one hand the loss to the claimants of the future pecuniary benefit and on the other any pecuniary advantage which from whatever sources come to them by reason of the death, that is, the balance of loss and gain to a dependent by the death must be ascertained."

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(9) A.I.R. 1971 S.C. 1624.

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(13) From a close scrutiny of the various judgments of the Supreme Court, as referred to above, it can be safely held to have been settled that in order to determine the quantum of damages in cases of fatal accidents, a basic figure indicative of the annual loss to the dependents from the premature death has to be arrived at. This amount is to be worked out not only on the basis of the salary or earning of the deceased at the time of the accident, but also by taking into consideration the entire relevant data, regarding the future prospects of increase in the course of employment or business, as the case may be. This basic figure has then to be converted into a lump sum by applying a suitable multiplier. In order to arrive at the correct multiplier, a number of factors which have been indicated in various judgments, as discussed above, have to be borne in mind. Whereas the Courts in England have so far gone to the extent of multiplying the basic figure of annual dependency by 16 years' purchase, the Supreme Court approved in one case 20 times as the suitable multiplier.

(14) A perusal of the various judgments of this Court from time to time, however, shows that no uniform principle has been followed.

(15) In *Jaswant Kaur and others v. Ratti Ram and others*, (10), the deceased at the time of the accident was 44 years' old. His life expectancy was determined at 65 years. The amount of total claim was arrived at by multiplying the annual loss by 21, that is, by the number of years by which the life had been cut short. It was held by Sodhi, J., that it was not necessary to make any deduction on account of the fact that the amount was being paid in lump sum.

(16) In *Damyanti Devi and others v. Sita Devi and others* (11), similarly, a Division Bench of this Court also held that it was not necessary to make any deduction on account of the lump sum payment and the amount of annual loss was multiplied by the number of years by which the life had been cut short.

(17) In another Division Bench judgment of this Court as reported in *Parsani Devi v. The State of Haryana and others* (12), the

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(10) 1971 A.C.J. 31.

(11) 1972 A.C.J. 334.

(12) 1973 A.C.J. 531.

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amount of damages was arrived at by multiplying the annual dependency by the number of years till the age of retirement. From its perusal it appears that no arguments were addressed on the principle of applicability of multiplier to determine the damages, nor was any deduction made in lieu of payment of compensation in lump sum.

(18) However, in the *State of Haryana and another v. Lt. Col. Balbir Singh Hooda*, (13), the Claims Tribunal after determining the total amount of damages reduced the same by 15 per cent on account of payment of lump sum and the learned Single Judge approved the principle of reduction of lump sum by 15 per cent though the amount was reduced on account of other relevant considerations.

(19) The learned counsel for the appellants, placed strong reliance on *Surjit Singh and another v. The Co-operative General Insurance Society Ltd.*, (14), for the proposition that only such amount should be allowed to the claimants which will ensure the amount of interest equal to the annual dependency if the same were invested on a long-term basis in some bank. In the said case, the Tribunal had awarded compensation amounting to Rs. 50,000. In appeal, the learned Single Judge reduced the said amount to Rs. 10,000 only. In L.P.A., the Division Bench upheld the decision of the learned Single Judge holding that the claimants' dependency was Rs. 50 per mensem which will be ensured by the total amount of Rs. 10,000 as the same will yield this much interest if it were invested in a bank on a long-term basis. This is quite a short judgment. Its perusal shows that no arguments had been addressed against the application of the principle in such matters, nor was the same considered in the background of the multiplier theory. This judgment was followed in *Sukhdev Raj Jain and others v. Shanti Devi and others* (15), by a learned Single Judge of this Court, and in *Jagir Kaur and others v. M/s. Uttam Singh-Chattar Singh and others* (16), by a Single Judge of the Himachal Pradesh High Court, without going into the merits of the principle. These decisions, however, were not agreed to by a Full Bench of this Court in the *Vanguard*

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(13) 1975 A.C.J. 1.

(14) 1974 P.L.R. 353.

(15) A.C.J. 246.

(16) 1975 A.C.J. 26.

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*insurance Co. Ltd., and another v. Smt. Naresh Kanta and others*, (17),  
 wherein after scrutinising these judgments, it was held,—

“However, this interest theory cannot be adopted as an inflexible principle for the purpose of assessing the compensation specially in these days when the purchasing power in terms of money is being eroded after short intervals on account of run away inflation.”

The judgment in the aforesaid Full Bench case was also rendered by me. After closely considering the arguments by the learned counsel in the present case, I am still of the view that the interest theory ought not be made the basis of determining the quantum of compensation due to the claimants.

(20) In *Malletts* case (*supra*), the appellate Court in England also held that both the imitation and the high bank interest rates which are adopted to curb the same should not be taken into consideration for the purpose of arriving at the correct amount of compensation. It was also held that for the purpose of calculating the present value of annual payments to which the claimants will be entitled in future, interest rates in times of stable currency such as 4 per cent to 5 per cent, may be relevant considerations.

(21) In present day India when our economy is not so highly developed as in western countries and the banking system has not taken deep roots especially in the villages, it is too unrealistic to adopt interest theory for determining the damages. In a large number of villages, there are neither any banks nor are the people accustomed to make investments therein. Besides, bank interest rates are not stable and static and the same go on fluctuating in view of the inflationary trends in the economy. Only a decade back, the normal bank interest rate did not exceed 4 per cent. As inflation in course of time becomes an essential part of the economy, the banks, in order to mop up the surplus money in the hands of the people, contrive of the inducement to pay higher rates of interest and these interests have been going up from time to time. The adoption of interest theory presumes that the claimant will invest the amount of claim in the bank which will ensure the amount of monthly dependency. In this manner, the claimants while getting the



monthly interest will also be having the capital invested in the bank as intact. This argument may be further advanced for the purpose of further reduction in the total amount of compensation. In my mind, the interest theory is impracticable and unrealistic and will not be a proper yardstick for determining the correct amount of compensation.

(22) After eliminating the interest theory from our consideration, we are left with the following options :

- (1) After determining the basic figure relating to the annual dependency of the claimants, the same should be multiplied by the number of years by which the life expectancy of the victim has been cut short without making any deduction whatsoever ;
- (2) Some deduction should be made in the above amount in lieu of lump sum payment to the claimants ; and
- (3) The basic figure of annual dependency should be multiplied by a suitable multiplier which will take into consideration the life expectancy of the deceased as well as the average life of the dependents amongst other relevant factors.

(23) In view of the judgment of the English Courts, and the Supreme Court, as discussed in the earlier part of this judgment, the most 'just and reasonable' view appears to be that the total amount of damages should be arrived at by multiplying the annual dependency by a suitable multiplier. The sole basis of awarding compensation to the dependents of the deceased is that on account of culpable negligence or default of the offender, a valuable life who was the source of livelihood to the claimants is cut short. Before the termination of life, the deceased was making some earning either through salary in Government service or any business, enterprise or in any other manner, or was getting earning through his own business or cultivation of land. A part of the same he was spending for his own maintenance and some part, if not the whole, was being utilised for up-keep and maintenance of the dependents who may be his widow, parents or his children. There can be cases where after spending the earnings on all the members of the family, still surplus may be left and may have been utilised for bringing into existence an estate or property. Thus, abrupt termination of life results in

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loss to the dependents or to the estate. The basic figure of annual dependency has, thus, to be determined after excluding the amount which the deceased was spending on himself or which he was investing in some capital investment or formation of the estate.

(24) The second stage is as to how to convert the same into the total amount of compensation. For this purpose, the relevant factors are obviously the number of years by which the unfortunate life has been cut short. In order to determine the same, the average life expectancy has to be worked out. Along with this, the ages of the dependents have also to be kept in view. The total amount of compensation due to old parents who may be expected to live for about five or ten years more cannot be the same as in the case of children and the widow who may have a long life still to go though the victim who has met the tragic end may be young. Besides this, the other relevant considerations are the uncertainties of life such as the victim may have died a natural death on account of any disease or ailment earlier even if the accident had not taken place. The widow may remarry and thus may not be dependent on the earnings of the husband. The children after getting education may get employed and may become self-employed. Trade and business of the victim may not flourish and may be the victim of recession and other uncertain factors. According to the Supreme Court, the determination of the amount of compensation is basically a net balance of the loss and gain to the survivors or the dependents. In this calculation, in the very nature of things, it is not possible to visualise and measure in exact terms all the uncertainties, hazards and the windfalls of life. According to their Lordships of the Supreme Court, there is bound to be some sort of general estimate, but mere speculations or wild guess work has to be avoided. In order to do justice between the parties, the method of multiplying the annual dependency by the number of years by which the life has been cut short without any further reduction is unreasonable and unrealistic. The amount of damages or compensation should not serve as windfall to the dependents. This amount would have been available to them if the accident had not taken place only from month to month and from year to year. That is why, in some cases, the method of making some percentage of deduction from the lump sum so arrived at, was adopted, but the same is too arbitrary and vague to serve the purpose of award of just compensation. The principle of working out the suitable multiplier with which annual dependency be

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multiplied and capital amount arrived at appears to be the only just and reasonable method because the same takes into consideration not only the age of the victim, but also the ages of the dependents and all uncertainties of life, both in the realm of enhancement in the income as well as factors justifying reduction in the amount of compensation. For the purpose of determining this multiplier, no exact and mathematical calculation can be provided. The English Courts have held in some cases that 16 times multiplier was quite sound and reasonable. The Supreme Court have gone further and in one case even 20 times was considered to be a suitable multiplier.

(25) In *Taylor v. O'Connor*, (18), Lord Reid while dealing with this aspect of the matter held:—

“Damages to make good the loss of dependency over a period of years must be awarded as a lump sum, and that sum is generally calculated by applying a multiplier to the amount of one year’s dependency. That is a perfectly good method in the ordinary case, but it conceals the fact that there are two quite separate matters involved—the present value of the series of future payments, and the discounting of that present value to allow for the fact that, for one reason or another, the person receiving the damages might never have enjoyed the whole of the benefit of the dependency, it is quite unnecessary in the ordinary case to deal with these matters separately. Judges and counsel have a wealth of experience which is an adequate guide to the selection of the multiplier and any expert evidence is rightly discouraged”.

In the opinion of Lord Guest, the multiplier was intended to provide in a rough measure adequate compensation for the loss sustained. No precise method can be expected. It is well hallowed in practice, and depends in some measure on the expertise of Judges accustomed to try these cases. Thus, out of all the alternative methods which have been adopted so far for determining the just amount of compensation, multiplier method appears to be realistic and reasonable and ensures better justice between the parties.

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(26) In *Smt. Naresh Kanta's case* (supra), however, a different principle of law appears to have been laid down. Therein, it was held,—

“The guiding star, according to the above mentioned judgments for the assessment of damages is that the annual earnings of the deceased, taking into consideration also the prospective benefits in the form of increments or promotions, should be ascertained after making deductions of the benefits which may accrue to the dependents as a result of the death and also the amount which the deceased was expected to have spent on his own person. This estimated income should be multiplied by the number of years by which the life of the deceased is estimated to be cut short. The result would be the fair capitalised amount of compensation to which the dependents may be entitled”.

The judgment in the above Full Bench case was written by me. As I look back, and it is also manifest from a close perusal of the judgment, the main contention in the said case centered round the applicability of the interest principle. No arguments were addressed and the mind was not specifically applied to the question regarding the determination of damages from all angles including the multiplier principle. On re-consideration, and in view of the discussion of the various judgments of the English Courts, and the Supreme Court, as held above, I am of the considered opinion, that the above view needs modification. The multiplier principle appears to be more sound and equitable. The statement of law to the same effect has been enunciated by their Lordships of the Supreme Court.

(27) It is manifest from a perusal of the various judgments of this Court that the multiplier method has not been applied and compensation in cases under the Act, and the Motor Vehicles Act, has been assessed on erroneous basis. Keeping in view the decisions in the Supreme Court cases and some English cases, noticed above, we hold that the following principles be observed and followed while assessing the compensation:—

- (1) The compensation to be assessed is the pecuniary loss caused to the dependents by the death of the person concerned, and no compensation is to be assessed on any extraneous consideration like love, affection, mental agony

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or any such similar consideration. Solatium is alien to the concept of compensation;

- (2) For the purpose of calculating the just compensation, annual dependency of the dependents should be determined in terms of the annual loss accruing to them due to the abrupt termination of life. For this purpose, annual earning of the deceased at the time of the accident and the amount out of the same which he was spending for the maintenance of the dependents will be the determining factor. This basic figure will then be multiplied by a suitable multiplier;
- (3) The suitable multiplier, as referred to in 2 above, shall be determined as held in *Sudhaker's case* (supra), decided by the Supreme Court as well as in *Mallat's case* (supra), by taking into consideration the number of years of the dependency of the various dependents, the number of years by which the life of the deceased was cut short and the various imponderable factors such like early natural death of the deceased, his becoming incapable of supporting the dependents due to illness or any other natural handicap or calamity, the prospects of the remarriage of the widow, the coming up of age of the dependents and their developing their independent sources of income as well as the pecuniary benefits which might accrue to the dependents on account of the death of the person concerned. Such benefits, however, should not include the amount of the insurance policy of the deceased to which the dependents may become entitled on account of its maturity as a result of the death.
- (4) The method adopted in certain decisions of this Court of multiplying the amount of the annual loss to the dependents with the number of years by which the life has been cut short without anything else cannot be sustained and all those decisions in which this view has been taken are hereby overruled;
- (5) The compensation cannot be assessed on the basis of the so-called interest theory as the same provides the dependants with the capital as well as the amount of annual

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loss earned by way of interest and it also suffers from a number of other defects, as have been discussed in this judgment, and

- (6) Considerations of evergrowing inflation and the decrease in the money value are also not relevant for the purpose of assessment of compensation.

(28) Now, advertng to the facts of the present case, according to the finding of the trial Court, one Karnail Singh, aged 23 years, was murdered by the appellants on September 10, 1960. Suit for damages was filed by the parents, widow, two minor sons and two minor daughters of the deceased. A total compensation to the tune of Rs. 57,200 was claimed. In reply, not only the commission of the murder was denied, but the appellants also disputed the amount of damages as claimed in the alternative. After scrutinising the evidence, the trial Court came to the positive conclusion that the murder of Karnail Singh had been committed by the appellants and that they were liable to pay damages to the claimants. At the time of his death, Karnail Singh was found to be 23 years of age. It was further held that at the time of his death, he was possessed of a healthy and stout physique. Regarding the earning of the deceased, the evidence on behalf of the claimants was to the effect that his annual income was between Rs. 2,000 to Rs. 2,500. According to the conclusion of the trial Court, the same was an exaggerated figure. However, it was held that the deceased was a stout young man and that he was cultivating the land of other persons at the relevant time. It was held that the deceased could be expected to earn Rs 3 per day as agricultural labour. In view of this estimate, his annual income was calculated at Rs. 1,080. In the opinion of the trial Court, Rs. 480 were likely to be spent by Karnail Singh on himself and thus Rs. 600 annually were incurred for the maintenance of his family. This amount was thus the annual dependency of the claimants.

(29) Regarding life expectancy of the deceased, it was held that in view of the normal expectancy of life at 60 years, life of Karnail Singh had been cut short as a result of murder by 37 years. Multiplying the annual dependency by 37, a total amount of Rs. 22,200 was allowed as compensation to the claimants. This calculation has been challenged by the appellants in the present appeal. The finding regarding the commission of murder by the appellants and the award

of Rs. 300 on account of funeral expenses by the trial Court, however, has not been disputed.

(30) As the deceased was a stout young man possessing good health at the time of the fatal accident and was working as a cultivator on others lands, the finding of the trial Court to the effect that the deceased was expected to earn Rs. 3 per day as agricultural labour appears to be rather on the low side. In our opinion, his daily earning cannot be estimated at less than Rs. 4. Thus, his annual income can be justly estimated to be Rs. 1,440 at this rate. He was supporting his family consisting of his wife and the four children, and the old parents. If he spent one-third of the income on himself, the annual dependency of the claimant will be Rs. 960.

(31) According to the trial Court, the normal expectancy of life in case of Karnail Singh, deceased, was 60 years. Thus, his life was cut short by 37 years. Keeping in view all the circumstances of the case as well as the hazards and uncertainties of the life in the villages, in our opinion, 16 will be a suitable multiplier. Thus, the respondents are entitled to a total amount of Rs. 15,360 as compensation and not more. In view of this finding, the amount of Rs. 22,200 as awarded by the trial Court has to be reduced to this extent. Adding the undisputed amount of Rs. 300 awarded in lieu of the funeral expenses, the respondents are held entitled to a total compensation of Rs. 15,660. The decree of the trial Court for Rs. 22,500 is modified and the decretal amount is reduced to Rs. 15,660.

(32) With this modification, this appeal is dismissed with no order as to costs.

S. S. Sandhawalia, C.J.—I agree.

S. C. Mital, J.—I agree.

D. B. Lal, J.—I agree.

S. P. Goyal, J.—I agree.

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N. K. S.