RAJESH & OTHERS

v.

RAJBIR SINGH & OTHERS

(Civil Appeal No. 3860 of 2013)

APRIL 12, 2013

[G.S. SINGHVI, KURIAN JOSEPH AND SHARAD ARVIND BOBDE, JJ.]

Motor Vehicles Act, 1988 – s.166 – Fatal accident – Compensation – Grant of – Addition to actual income of the deceased towards future prospects – Norms laid down with regard to salaried persons in Sarla Verma case – Further explained in Santosh Devi case, and also made applicable to self-employed and persons on fixed wages – Clarification now given in regard to self-employed and persons on fixed wages with reference to their age – Held: In case the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects – Addition should be 30% in case the deceased was in the age group of 40 to 50 years – Since in case of those self-employed or on fixed wages, there is normally no age of superannuation, it will only be just and equitable to provide an addition of 15% in the case where the victim was between the age group of 50 to 60 years – There should normally be no addition thereafter.

Motor Vehicles Act, 1988 – s.166 – Fatal accident – Grant of compensation – Loss of consortium to the spouse – Held: The loss of companionship, love, care and protection, etc., the spouse is entitled to get, has to be compensated appropriately – On facts, it would only be just and reasonable that the courts award at least Rs. 1 lakh for loss of consortium.

Motor Vehicles Act, 1988 – s.166 – Fatal accident – Grant of compensation – 'Funeral Expenses' – Held:

A *Tribunals have been quite frugal with regard to award of compensation under the head 'Funeral Expenses' – 'Price Index' has gone up in that regard also – On facts, it will be just, fair and equitable, under the head of 'Funeral Expenses', in the absence of evidence to the contrary for higher* B *expenses, to award at least an amount of Rs.25,000/.*

Motor Vehicles Act, 1988 – s.166 – Fatal accident – Deceased aged 33 years – Earning salary of Rs.9,520/- per month – Compensation – Grant of – Held: 50% salary added as future prospects –1/4th deducted as personal expenses of C *the deceased – Multiplier of 16 applied – Rs.1 lakh awarded towards loss of consortium and further Rs.1 lakh towards loss of care and guidance for minor children – Rs.25,000/- awarded towards funeral expenses – Total compensation awarded amounting to Rs.22,81,320/-.*

D

Motor Vehicles Act, 1988 – s.166 – Just compensation – Meaning of – Held: 'Just Compensation' is adequate compensation which is fair and equitable, on the facts and circumstances of the case, to make good the loss suffered E *as a result of the wrong, as far as money can do so, by applying the well-settled principles relating to award of compensation.*

Motor Vehicles Act, 1988 – s.166 – Compensation – Duty of the Court – To fix just compensation, irrespective of F *the claim – Held: The Court should not succumb to niceties or technicalities, in matters relating to compensation – Attempt of the Court should be to equate, as far as possible, the misery on account of the accident with the compensation so that the injured/the dependants should not face the vagaries* G *of life on account of the discontinuance of the income earned by the victim – Tribunal/Court has a duty, irrespective of the claims made in the Application, if any, to properly award a just, equitable, fair and reasonable compensation, if necessary, ignoring the claim made in the application for* H *compensation.*

Words and Phrases –'Consortium' – Meaning of.

A 33 year old person died in an accident. The deceased was drawing a monthly salary of Rs.6,926/-. His dependants claimed compensation before the Motor Accident Claims Tribunal. The Claims Tribunal deducted 1/3rd towards personal expenses, applied multiplier of 16 and further awarded an amount of Rs.10,000/- towards all other conventional heads and the compensation was rounded off to Rs.8,96,500/- with interest @ 7.5% from the date of the filing of the petition.

The High Court, following *Sarla Verma* case, modified the award holding that only 1/4th should have been deducted from the income. An amount of Rs.10,000/- was also awarded for loss of consortium in addition to Rs.10,000/- already granted by the Tribunal on other conventional heads and, thus, it was held that the total compensation would be Rs.10,17,000/- with interest @ 7.5%. Still not satisfied, the widow and the children of the deceased filed appeal before this Court.

Allowing the appeal, the Court

HELD: 1.1. The expression 'just compensation' has been explained in *Sarla Verma's* case, holding that the compensation awarded by a Tribunal does not become just compensation merely because the Tribunal considered it to be just. 'Just Compensation' is adequate compensation which is fair and equitable, on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do so, by applying the well-settled principles relating to award of compensation. [Para 7] [969-G-H; 970-A-B]

1.2. The duty of the Court is to fix a just compensation and it has now become settled law that the Court should not succumb to niceties or technicalities, in such matters.

A **Attempt of the Court should be to equate, as far as possible, the misery on account of the accident with the compensation so that the injured/the dependants should not face the vagaries of life on account of the discontinuance of the income earned by the victim. [Para** B **15] [974-C-D]**

1.3. The Court should award proper compensation irrespective of the claim and, if required, even in excess of the claim. The Tribunal/Court has a duty, irrespective of the claims made in the Application, if any, to properly C **award a just, equitable, fair and reasonable compensation, if necessary, ignoring the claim made in the application for compensation. [Paras 16, 19] [974-D-E; 975-G]**

D *Sarla Verma (Smt) and others vs. Delhi Transport Corporation and another* **(2009) 6 SCC 121: 2009 (5) SCR 1098;** *Santosh Devi vs. National Insurance Company Limited and others* **(2012) 6 SCC 421: 2012 (3) SCR 1178 – explained.**

E *Nagappa vs. Gurudayal Singh and Others* **AIR 2003 SC 674: 2002 (4) Suppl. SCR 499;** *Oriental Insurance Company Limited vs. Mohd. Nasir and another* **AIR 2009 SC 1219: 2009 (1) SCR 14 and** *Ningamma and another vs. United Indian Insurance Company Limited* **(2009) 13 SCC 710:** F **2009 (8) SCR 683 – relied on.**

2.1. In *Sarla Verma's* case, after surveying almost all the previous decisions, the Supreme Court almost standardized the norms for the assessment of damages G **in Motor Accident Claims. It held that "where the deceased had a permanent job and was below 40 years, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects", should be adopted. "The addition should be only 30% if** H **the age of the deceased was 40 to 50 years. There should**

be no addition, where the age of deceased is more than 50 years." "Where the deceased was self-employed or was on a fixed salary (without provision for annual increments etc.), the courts will usually take only the actual income at the time of death. A departure therefrom should be made only in rare and exceptional cases involving special circumstances." [Paras 7, 8] [970-B, D-E, F-G]

2.2. In a recent decision in *Santosh Devi, Sarla Verma's* case was further explained with regard to the settled norms and it was held that it cannot be said that "in Sarla Verma's judgment, the Court had intended to lay down an absolute rule that there will be no addition in the income of a person who is self-employed or who is paid fixed wages. Rather, it would be reasonable to say that a person who is self-employed or is engaged on fixed wages will also get 30 per cent increase in his total income over a period of time and if he/she becomes victim of accident then the same formula deserves to be applied for calculating the amount of compensation." [Paras 9, 10] [970-G-H; 792-G-H, 973-A]

3.1. Since, the Court in *Santosh Devi's* case actually intended to follow the principle in the case of salaried persons as laid in *Sarla Verma's* case and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years. [Para 11] [973-B-D]

A 3.2. In *Sarla Verma's* case, it has been stated that in the case of those above 50 years, there shall be no addition. Having regard to the fact that in the case of those self-employed or on fixed wages, where there is normally no age of superannuation, it will only be just and
B equitable to provide an addition of 15% in the case where the victim is between the age group of 50 to 60 years so as to make the compensation just, equitable, fair and reasonable. There shall normally be no addition thereafter. [Para 12] [973-D-F]

C 4.1. There is a need to revisit the practice of awarding compensation under conventional heads: loss of consortium to the spouse, loss of love, care and guidance to children and funeral expenses. The sum of Rs.2,500/- to Rs.10,000/- in those heads was fixed several decades
D ago and having regard to inflation factor, the same needs to be increased. In *Sarla Verma's* case, it was held that compensation for loss of consortium should be in the range of Rs.5,000/- to Rs.10,000/-. In legal parlance, 'consortium' is the right of the spouse to the company,
E care, help, comfort, guidance, society, solace, affection and sexual relations with his or her mate. That non-pecuniary head of damages has not been properly understood by our Courts. The loss of companionship, love, care and protection, etc., the spouse is entitled to
F get, has to be compensated appropriately. The concept of non-pecuniary damage for loss of consortium is one of the major heads of award of compensation in other parts of the world more particularly in the United States of America, Australia, etc. English Courts have also
G recognized the right of a spouse to get compensation even during the period of temporary disablement. By loss of consortium, the courts have made an attempt to compensate the loss of spouse's affection, comfort, solace, companionship, society, assistance, protection,
H care and sexual relations during the future years. Unlike

the compensation awarded in other countries and other jurisdictions, since the legal heirs are otherwise adequately compensated for the pecuniary loss, it would not be proper to award a major amount under this head. Hence, it would only be just and reasonable that the courts award at least rupees one lakh for loss of consortium. [Para 20] [976-B-G] A B

4.2. The Tribunals have been quite frugal with regard to award of compensation under the head 'Funeral Expenses'. The 'Price Index', it is a fact has gone up in that regard also. The head 'Funeral Expenses' does not mean the fee paid in the crematorium or fee paid for the use of space in the cemetery. There are many other expenses in connection with funeral and, if the deceased is follower of any particular religion, there are several religious practices and conventions pursuant to death in a family. All those are quite expensive. Therefore, it will be just, fair and equitable, under the head of 'Funeral Expenses', in the absence of evidence to the contrary for higher expenses, to award at least an amount of Rs.25,000/. [Para 21] [976-H; 977-A-C] C D E

5. In the instant case, the appellants have produced before this Court salary certificate of the deceased which shows that after the revision of the salary by the Sixth Pay Commission with effect from 01.01.2006, the deceased had a monthly salary of Rs.9,520/-. Applying the principles in *Sarla Verma's* case as explained in *Santosh Devi's* case, and in the instant case, the compensation is re-assessed at Rs.22,81,320/-.The amount will carry interest @ 7.5% as awarded by the Tribunal from the date of the filing of the petition till realization. [Paras 22, 23] [977-D, E; 978-C-D] F G

Case Law Reference:

2002 (4) Suppl. SCR 499 relied on Para 3, 13 H

A	**2009 (5) SCR 1098**	**explained**	**Paras 5,7, 9,11,12, 20,22**
	2012 (3) SCR 1178	**explained**	**Para 9, 11, 20**
B	**2009 (1) SCR 14**	**relied on**	**Para 14**
	2009 (8) SCR 683	**relied on**	**Para 14**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. C 3860 of 2013.

From the Judgment & Order dated 29.01.2010 of the High Court of Punjab & Haryana at Chandigarh in FAO No. 2816 of 2009.

D Gagan Gupta for the Appellants.

S. Gowthaman for the Respondents.

The Judgment of the Court was delivered by

E **KURIAN , J.** 1. Leave granted.

2. Compensation which appears to it to be just, has to be assessed and awarded by the Claims Tribunal set up under Section 168 of the Motor Vehicles Act, 1988 (for short, 'the Act'), F on an application under Section 166 of the Act.

3. In *Nagappa vs. Gurudayal Singh and Others*[1], it has been held by this Court that the main guiding principle for determining the compensation is that it must be just. It has also been held that the award must be reasonable. Some of the G relevant parameters in that regard arise for consideration in this case.

4. Petitioners are the widow (Smt. Rajesh) and three minor

H 1. AIR 2003 SC 674

children of late Bijender Singh-deceased victim. At the time of accident, the deceased was around 33 years. The fatal accident was on 05.10.2007. The deceased was working as clerk in a school under the education department in the State of Haryana. The salary certificate, Exhibit-P3, filed along with Claim Petition filed on 26.11.2007, showed that the deceased was drawing a monthly salary of Rs.6,926/-. The Tribunal deducted 1/3rd towards personal expenses, applied multiplier of 16 and further awarded an amount of Rs.10,000/- towards all other conventional heads and the compensation was rounded off to Rs.8,96,500/- with interest @ 7.5% from the date of the filing of the petition. It was also held that 60% of the compensation awarded would go to the widow and the remaining 40% to be equally shared by the minor children and mother. The share of the minor children was directed to be deposited in their name in a nationalized bank till they attained majority.

5. Dissatisfied, the Claim Petitioners except the mother approached the High Court of Punjab and Haryana. The mother was made a proforma respondent. High Court, following *Sarla Verma (Smt) and others vs. Delhi Transport Corporation and another*[2], modified the award holding that only 1/4th should have been deducted from the income. An amount of Rs.10,000/- was also awarded for loss of consortium in addition to Rs.10,000/- already granted by the Tribunal on other conventional heads and, thus, it was held that the total compensation would be Rs.10,17,000/- with interest @ 7.5%.

6. Still not satisfied, the widow and the children have approached this Court.

7. The expression 'just compensation' has been explained in *Sarla Verma's* case (supra), holding that the compensation awarded by a Tribunal does not become just compensation merely because the Tribunal considered it to be just. 'Just Compensation' is adequate compensation which is fair and

2. (2009) 6 SCC 121.

A equitable, on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do so, by applying the well-settled principles relating to award of compensation. After surveying almost all the previous decisions, the Court almost standardized the norms for the
B assessment of damages in Motor Accident Claims.

8. At paragraph 24, it has been held as follows: -

"24. In *Susamma Thomas,* this Court increased the income by nearly 100%, in Sarla Dixit, the income was
C increased only by 50% and in *Abati Bezbaruah* the income was increased by a mere 7%. In view of imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects,
D where the deceased had a permanent job and was below 40 years. (Where the annual income is in the taxable range, the words 'actual salary' should be read as 'actual salary less tax'). The addition should be only 30% if the age of the deceased was 40 to 50 years. There should
E be no addition, where the age of deceased is more than 50 years. Though the evidence may indicate a different percentage of increase, it is necessary to standardize the addition to avoid different yardsticks being applied or different methods of calculations being adopted. Where the
F deceased was self-employed or was on a fixed salary (without provision for annual increments etc.), the courts will usually take only the actual income at the time of death. A departure therefrom should be made only in rare and exceptional cases involving special circumstances."

G 9. In a recent decision, in *Santosh Devi vs. National Insurance Company Limited and others*[3], authored by one of us (G. S. Singhvi, J.), *Sarla Verma's case* (supra) has further been explained with regard to the settled norms. It has been held in Paragraph 11 as follows:

H 3. (2012) 6 SCC 421.

"11. We have considered the respective arguments. Although, the legal jurisprudence developed in the country in last five decades is somewhat precedent-centric, the judgments which have bearing on socio-economic conditions of the citizens and issues relating to compensation payable to the victims of motor accidents, those who are deprived of their land and similar matters needs to be frequently revisited keeping in view the fast-changing societal values, the effect of globalisation on the economy of the nation and their impact on the life of the people."

10. Consequently, it has been held at Paragraphs 14 to 18, as follows:-

"14. We find it extremely difficult to fathom any rationale for the observation made in paragraph 24 of the judgment in Sarla Verma's case that where the deceased was self-employed or was on a fixed salary without provision for annual increment, etc., the Courts will usually take only the actual income at the time of death and a departure from this rule should be made only in rare and exceptional cases involving special circumstances. In our view, it will be nave to say that the wages or total emoluments/income of a person who is self-employed or who is employed on a fixed salary without provision for annual increment, etc., would remain the same throughout his life.

15. The rise in the cost of living affects everyone across the board. It does not make any distinction between rich and poor. As a matter of fact, the effect of rise in prices which directly impacts the cost of living is minimal on the rich and maximum on those who are self-employed or who get fixed income/emoluments. They are the worst affected people. Therefore, they put in extra efforts to generate additional income necessary for sustaining their families.

16. The salaries of those employed under the Central and

A State Governments and their agencies/ instrumentalities have been revised from time to time to provide a cushion against the rising prices and provisions have been made for providing security to the families of the deceased employees. The salaries of those employed in private B sectors have also increased manifold. Till about two decades ago, nobody could have imagined that salary of Class IV employee of the Government would be in five figures and total emoluments of those in higher echelons of service will cross the figure of rupees one lakh.

C 17. Although, the wages/income of those employed in unorganized sectors has not registered a corresponding increase and has not kept pace with the increase in the salaries of the Government employees and those employed in private sectors but it cannot be denied that D there has been incremental enhancement in the income of those who are self-employed and even those engaged on daily basis, monthly basis or even seasonal basis. We can take judicial notice of the fact that with a view to meet the challenges posed by high cost of living, the persons falling E in the latter category periodically increase the cost of their labour. In this context, it may be useful to give an example of a tailor who earns his livelihood by stitching cloths. If the cost of living increases and the prices of essentials go up, it is but natural for him to increase the cost of his labour. F So will be the cases of ordinary skilled and unskilled labour, like, barber, blacksmith, cobbler, mason etc.

18. Therefore, we do not think that while making the observations in the last three lines of paragraph 24 of Sarla Verma's judgment, the Court had intended to lay G down an absolute rule that there will be no addition in the income of a person who is self-employed or who is paid fixed wages. Rather, it would be reasonable to say that a person who is self-employed or is engaged on fixed wages will also get 30 per cent increase in his total income over

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a period of time and if he/she becomes victim of accident then the same formula deserves to be applied for calculating the amount of compensation." A

11. Since, the Court in *Santosh Devi's* case (supra) actually intended to follow the principle in the case of salaried persons as laid in *Sarla Verma's* case (supra) and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years. B C D

12. In *Sarla Verma's* case (supra), it has been stated that in the case of those above 50 years, there shall be no addition. Having regard to the fact that in the case of those self-employed or on fixed wages, where there is normally no age of superannuation, we are of the view that it will only be just and equitable to provide an addition of 15% in the case where the victim is between the age group of 50 to 60 years so as to make the compensation just, equitable, fair and reasonable. There shall normally be no addition thereafter. E F

13. Whether the Tribunal is competent to award compensation in excess of what is claimed in the Application under Section 166 of the Motor Vehicles Act, 1988, is another issue arising for consideration in this case. At Paragraph 10 of *Nagappa's* case (supra), it was held as follows:- G

"10. Thereafter, Section 168 empowers the Claims Tribunal to "make an award determining the amount of compensation which appears to it to be just". Therefore, only requirement for determining the compensation is that H

A it must be 'just'. There is no other limitation or restriction on its power for awarding just compensation."

14. The principle was followed in the later decisions in *Oriental Insurance Company Limited vs. Mohd. Nasir and another*[4] and in *Ningamma and another vs. United Indian Insurance Company Limited*[5].

15. Underlying principle discussed in the above decisions is with regard to the duty of the Court to fix a just compensation and it has now become settled law that the Court should not succumb to niceties or technicalities, in such matters. Attempt of the Court should be to equate, as far as possible, the misery on account of the accident with the compensation so that the injured/the dependants should not face the vagaries of life on account of the discontinuance of the income earned by the victim.

16. There is another reason why the Court should award proper compensation irrespective of the claim and, if required, even in excess of the claim. After the amendment of the Act by Act No. 54 of 1994 with effect from 14.11.1994, the Report on motor vehicle accident prepared by the police officer and forwarded to the Claims Tribunal under sub-Section (6) of Section 158 has to be treated as an Application for Compensation. Section 158 (6) of the Act reads as follows:

"158. Production of certain certificates, licence and permit in certain cases.-

(1) to (5) xxx xxx xxx

(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-in-charge of the police station shall forward a

4. AIR 2009 SC 1219.

5. (2009) 13 SCC 710.

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 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." A B

17. Section 166 (4) of the Act reads as follows: -

"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." C

18. Prior to the amendment in 1994, it was left to the discretion of the Tribunal as to whether the report be treated as an application or not. The pre-amended position under sub-Section (4) of Section 166 of the Act, read as under: D

"(4) Where a police officer has filed a copy of the report regarding an accident to a Claims Tribunal under this Act, the Claims Tribunal may, if it thinks it necessary so to do, treat the report as if it were an application for compensation under this Act." E

19. In a report on accident, there is no question of any reference to any claim for damages, different heads of damages or such other details. It is the duty of the Tribunal to build on that report and award just, equitable, fair and reasonable compensation with reference to the settled principles on assessment of damages. Thus, on that ground also we hold that the Tribunal/Court has a duty, irrespective of the claims made in the Application, if any, to properly award a just, equitable, fair and reasonable compensation, if necessary, ignoring the claim made in the application for compensation. F G

20. The ratio of a decision of this Court, on a legal issue is a precedent. But an observation made by this Court, mainly H

A to achieve uniformity and consistency on a socio-economic issue, as contrasted from a legal principle, though a precedent, can be, and in fact ought to be periodically revisited, as observed in **Santhosh Devi** (supra). We may therefore, revisit the practice of awarding compensation under conventional
B heads: loss of consortium to the spouse, loss of love, care and guidance to children and funeral expenses. It may be noted that the sum of Rs.2,500/- to Rs.10,000/- in those heads was fixed several decades ago and having regard to inflation factor, the same needs to be increased. In **Sarla Verma's case** (supra),
C it was held that compensation for loss of consortium should be in the range of Rs.5,000/- to Rs.10,000/-. In legal parlance, 'consortium' is the right of the spouse to the company, care, help, comfort, guidance, society, solace, affection and sexual relations with his or her mate. That non-pecuniary head of
D damages has not been properly understood by our Courts. The loss of companionship, love, care and protection, etc., the spouse is entitled to get, has to be compensated appropriately. The concept of non-pecuniary damage for loss of consortium is one of the major heads of award of compensation in other parts of the world more particularly in the United States of
E America, Australia, etc. English Courts have also recognized the right of a spouse to get compensation even during the period of temporary disablement. By loss of consortium, the courts have made an attempt to compensate the loss of spouse's affection, comfort, solace, companionship, society,
F assistance, protection, care and sexual relations during the future years. Unlike the compensation awarded in other countries and other jurisdictions, since the legal heirs are otherwise adequately compensated for the pecuniary loss, it would not be proper to award a major amount under this head.
G Hence, we are of the view that it would only be just and reasonable that the courts award at least rupees one lakh for loss of consortium.

21. We may also take judicial notice of the fact that the
H Tribunals have been quite frugal with regard to award of

compensation under the head 'Funeral Expenses'. The 'Price Index', it is a fact has gone up in that regard also. The head 'Funeral Expenses' does not mean the fee paid in the crematorium or fee paid for the use of space in the cemetery. There are many other expenses in connection with funeral and, if the deceased is follower of any particular religion, there are several religious practices and conventions pursuant to death in a family. All those are quite expensive. Therefore, we are of the view that it will be just, fair and equitable, under the head of 'Funeral Expenses', in the absence of evidence to the contrary for higher expenses, to award at least an amount of Rs.25,000/

22. Petitioners have produced before this Court Annexure-P4 salary certificate of the deceased Bijender Singh which shows that after the revision of the salary by the Sixth Pay Commission with effect from 01.01.2006, the deceased had a monthly salary of Rs.9,520/-. It is submitted that since the Sixth Pay Commission benefits were announced only subsequently making it to operate retrospectively from 01.01.2006, the salary certificate could not be produced before the Tribunal or the High Court. Applying the principles in **Sarla Verma's case** (supra) as explained in **Santosh Devi's case**, and in the instant case, the compensation has to be re-assessed as follows:

Sl. No.	HEADS	CALCULATION
(i)	Salary	**Rs.9,520.00 per month.**
(ii)	50% of (i) above to be added as future prospects =	[Rs.9,520.00 + Rs.4,760.00]= **Rs.14,280.00 per month**
(iii)	1/4th of (ii) deducted as personal expenses of the deceased =	[Rs.14,280.00 — Rs.3,570.00]= **Rs.10,710.00 per month**

(iv)	Compensation after multiplier of 16 is applied=	[Rs.10,710.00 x 12 x 16] =**Rs.20,56,320.00**
(v)	Loss of consortium =	**Rs.1,00,000.00**
(vi)	Loss of care and guidance for minor children =	**Rs.1,00,000.00**
(vii)	Funeral expenses =	**Rs.25,000.00**
	TOTAL COMPENSATION AWARDED =	**Rs.22,81,320.00**

23. The amount will carry interest @ 7.5% as awarded by the Tribunal from the date of the filing of the petition, viz., 26.11.2007 till realization.

24. In the result, the Appeal is allowed, the impugned Judgment as also the Award of the Tribunal are set aside. The claimant shall be entitled to a total compensation of Rs. 22,81,320/- with interest @ 7.5% p.a. from 26.11.2007 till realization. The 3rd Respondent-Insurance Company is directed to pay the 50% of the enhanced compensation by getting prepared a demand draft in her name which shall be delivered at the address given by her in the Claim Petition within three months. Demand drafts for the balance amount in equal proportion, after deducting the amount, if any, already paid, shall be prepared in the name of the three minor children and the mother and the same shall also be delivered to the parties at the respective addresses given in the Claim Petition within three months. The amounts in the share of the minor children shall be deposited in the nationalized bank where the amounts as awarded by the Tribunal have already been deposited, till they attain majority.

25. There is no order as to costs.

B.B.B. Appeal allowed.