Karnataka High Court A. Manavalagan vs A. Krishnamurthy And Ors. on 17 April, 2004 Equivalent citations: I (2005) ACC 304, 2005 ACJ 992, ILR 2004 KAR 3268, 2004 (5) KarLJ 321 Author: R Raveendran Bench: R Raveendran, N Patil JUDGMENT R.V. Raveendran, J. 1. This is a claimant's Appeal against the judgment and award dated 15.9.1998 passed by the Motor Accidents Claim Tribunal, Chitradurga, in MVC No. 1397 of 1992. 2. When the appellant and his wife Vijayakumari were proceeding in a car, from Goa to Bangalore, on 21.5.1992, a lorry bearing No. TN-28-2853, coming from the opposite direction, being driven in a rash and negligent manner dashed against the car. As a result of the head-on collision, Vijayakumari sustained serious injuries. She was taken to a Hospital at Davangere and later to NIMHANS, Bangalore, where she died on the same day at about 10.00 p.m. The Appellant filed a claim petition claiming a compensation of Rs. 37,05,857.00. The driver, owner and insurer of the lorry were impleaded as respondents 1, 2 and 3. The owner and insurer of the car were impleaded as respondents 4 and 5. The petition was resisted by respondents 2 to 5. 3. The Tribunal framed appropriate issues regarding negligence of the driver of the lorry and driver of the car, entitlement of claimant of compensation and quantum of compensation. The Appellant examined himself as PW1 and examined an official from the college where the deceased was working as PW2 and got marked Ex.P. 1 to 18. No witness was examined on behalf of the respondents. The insurance policies of the two vehicles involved in the accident were marked as Ex.R1 &2. 4. The evidence showed that deceased Vijayakumari was aged 37 years and was highly qualified. She possessed the degrees of MA., (Sociology), M.Phil (Zoology) and M.Ed. She had enrolled herself for a Doctorate in Zoology. She was working as Senior Lecturer in Zoology in Chikkanna Government Arts College, Tiruppur, drawing a salary of Rs. 5,848.00 made up of basic pay of Rs. 3,300.00 plus Rs. 2,343.00 (DA), Rs. 190.00 (HRA) and Rs. 15.00 (MA) [Vide college Certificate at Ex.P6]. The deceased had married the appellant on 22.10.1990 and there were no children. The deceased was residing at Sowripalayam and was travelling 60KM daily to Tiruppur, were she was working. Her husband (the appellant) was residing and working at Coimbatore as an Assistant Manager in a Milk Dairy. On account of exigencies of service, they were maintaining separate establishments. 5. The Tribunal by judgment and award dated 15,9.1998, allowed the claim petition in part. It held that the accident occurred due to rash and negligent driving of the lorry by its driver and not due to any negligence on the part of the driver of the car. The Tribunal found that the Appellant and his wife were financially independent of each other, working at different places having separate establishments; and that therefore she would have spent 60 to 70% of her Salary towards her maintenance, personal and living expenses. Consequently, the Tribunal held that, she would have a saving or contributed to the family nest about 30% of her salary. Having regard to the prospects of promotion, increments etc., the Tribunal determined the income of the deceased as Rs. 6,000/- and took 30% thereof [Rs. 1,800] as the contribution to the family saving fund, which works out Rs. 21,600/- per annum. The Tribunal applied a multiplier of 11 and arrived at the total savings as Rs. 2,37,600/- (rounded off to Rs. 2.38 lakhs). This was considered as the loss of estate. Tribunal awarded a sum of Rs. 10,000/- towards loss of consortium and Rs. 10,000/- for funeral and transportation. Thus, the total compensation was fixed at Rs. 2,58,000/- and the third respondent was directed the pay the said amount. The petition was dismissed as against respondents-4 and 5. The Tribunal held that the appellant as the legal heir of the deceased was entitled to the said compensation amount with interest at the rate of 9% p.a. from the date of petition. 6. Feeling aggrieved, the claimant has filed this appeal contending that the compensation awarded is inadequate. According to the claimant, the deceased was highly qualified and but for her premature death, would have risen to the post of Principal of the college where she was working. He contends that the Tribunal failed to assess the income of the deceased properly for the purpose of calculating the loss of dependency and the compensation payable. The appellant contends that the Tribunal committed an error in taking only 30% of the salary as saving and it ought to have taken the promotional prospects and determined the loss of dependency in the normal manner by treating two-third of the income as the contribution to the family. 7. On the other hand, the respondents contended that awarding compensation under the head of loss of dependency would arise only where the claimants were a dependent on the income of the deceased; and where there is no dependency, award of compensation under the head of loss of dependency would not arise. It is submitted that when there is no contribution towards the maintenance of the 'dependant/s', the procedure of deducting one-third or some other percentage of income towards personal and living expenses and determining the annual dependency (multiplicand) and then applying a multiplier with reference to the age of deceased (or age of the claimant as the case may be) will not arise. It is contended that as the appellant was not a dependant of the deceased, what could be awarded is only a conventional sum as loss of estate and the expenses incurred for transportation, treatment and funeral of the deceased. It is submitted that what has been awarded is itself on the high side and therefore there is no need to further increase it. 8. On the contentions urged, the following questions arise for consideration: (i) What are the principles for determining compensation, where the claimant is not a dependant? (ii) Whether the compensation awarded is inadequate and required to be increased? 9. Section 168 of the Motor Vehicles Act, 1988 ('MV Act' for short) empowers the Motor Accidents Claims Tribunals constituted under the Act to hold an inquiry into any claim arising out of a motor accident and make an award determining the amount of compensation, which appears to it to be just, specifying the person or persons to whom the compensation shall be paid. The Act does not, however, state how 'just compensation' should be determined. 10. In HELEN C REBELLO v. MAHARASHTRA STATE ROAD TRANSPORT CORPORATION, the Supreme Court observed that use of words 'which appears to it to be just' (in Section 110B of Motor Vehicles Act, 1939, corresponding to Section 168 of the New Motor Vehicles Act, 1988) widens the scope of determination of compensation, when compared to the provisions of the Fatal Accidents Act, 1855 ('FA Act' for short). It was further observed that the word 'just' denotes equitability, fairness and reasonableness having a large peripheral field. The Supreme Court proceeded to observe. “The largeness is of course not arbitrary; it is restricted by the conscience which is fair, reasonable and equitable; if it exceeds, it is termed as unfair, unreasonable, inequitable and not just. Thus, this field of wider discretion of the tribunal has to be within the said limitations and the limitations under any provisions of this Act (Motor Vehicles Act) or any other provisions having in force of law”. In GUJARAT STATE ROAD TRANSPORT CORPORATION v. RAMANBHAI PRABHATBHAI, the Supreme Court held: “It is further seen from Section 110B (of Motor Vehicles Act, 1939) that the claims Tribunal authorised 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. Persons for whose benefit such an application can be made and the manner in which the compensation awarded may be distributed amongst the persons for whose benefit the application is made are dealt with by Section 110 A and Section 110B of the Act and to that extent the provisions of the (Motor Vehicles) Act do supersede the provisions of the Fatal Accidents Act, 1855 in so far as motor vehicles accidents are concerned.” 11. The said decisions should not however be construed as laying down a proposition that the Tribunals have unbridled freedom to render awards as per their individual notions of what is ‘just’ or that they are not guided by any principles in assessing the compensation. The hallmarks of justness, are reasonableness, fairness, consistency, uniformity and equitableness and those can be achieved only by following the settled principles evolved by Courts relating to determination of compensation, in the absence of any statutory guidelines. 12. In GOBALD MOTOR SERVICE v. R.M.K. VELUSWAMI, referring to Sections 1 and 2 of the Fatal Accidents Act (Sections 1A and 2 after 1951 amendment to the said Act), the Supreme Court pointed out the difference between damages recoverable under the said two Sections. It was held that while under Section 1 (new Section 1A) damages are recoverable for the benefit of the persons mentioned therein, under Section 2, compensation goes to the benefit of the estate; whereas under Section 1, damages are payable in respect of loss sustained by the persons mentioned therein, under Section 2 damages can be claimed inter alia for loss of expectation of life and loss to the estate. The Supreme Court held that persons who claim benefit under Section 1 and 2 need not be the same as the claims under the said two Sections are based upon different causes of action. The supreme Court held: “The principle in its application to the Indian Act has been clearly and succinctly stated by a division bench of the Lahore High Court in SECRETARY OF STATE v. GOKAL CHAND (AIR 1925 Lah 636). In that case, Sri SHADILAL CJ observed thus:”The law contemplates two sorts of damages: the one is the pecuniary loss to the estate of the deceased resulting from the accident; the other is the pecuniary loss sustained by the members of his family through his death. The action for the latter is brought by the legal representatives, not for the estate, but as trustees for the relatives beneficially entitled; while the damages for the loss caused to the estate are claimed on behalf of the estate and when recovered from part of the assets of the estate. An illustration may clarify the position X is the income of the estate of the deceased, Y is the yearly expenditure incurred by him on his dependants (we will ignore the other expenditure incurred by him). X-Y, i.e., Z is the amount he saves every year. The capitalised value of the income spend on the dependants, subject to relevant deductions, is the pecuniary loss sustained by the members of his family through his death. The capitalised value of his income, subject to relevant deductions, would be the loss caused to the estate by his death. If the claimants under both the heads are the same, and if they get compensation for the entire loss caused to the estate, they cannot claim again under the head of personal loss the capitalised income that might have been spent on them if the deceased were alive. Conversely, if they got compensation under Section 1, representing the amount that the deceased would have spent on them, if alive, to that extent there should be deduction in their claim under Section 2 of the Act in respect of compensation for the loss caused to the estate. To put it differently, if under Section 1 they got capitalised value of Y; under Section 2 they could get only the capitalised value of Z, for the capitalised value of Y+Z, i.e., X, would be the capitalised value of his entire income." "The rights of action under Section 1 and 2 of the Act are quite distinct and independent. If a person taking benefit under both the Sections is the same, he cannot be permitted to recover twice over for the same loss. In awarding damages under both the heads, there shall not be duplication of the same claim, that is, if any part of the compensation representing the loss to the estate goes into the calculation of personal loss under Section 1 of the Act, the portion shall be excluded in giving compensation under Section 2 and vice versa." The principle was reiterated in C.K. SUBRAMANIA IYER v. T. KUNHIKUTTAN NAIR, thus: "Compulsory damages under Section 1A of the Act for wrongful death must be limited strictly to the pecuniary loss to the beneficiaries and that under Section 2, the measure of damages is the economic loss sustained by the estate. . . " 13. The Supreme Court has evolved the multiplier method for assessment of damages, based on the common law principles of torts, the provisions of the Fatal Accidents Act, 1855 and the provisions of Motor Vehicles Act. In GENERAL MANAGER, KERALA STATE ROAD TRANSPORT CORPORATION v. SUSAMMA THOMAS, the Supreme Court clarified the position thus: "The proper method of computation is the multiplier method. Any departure, except in exceptional and extra-ordinary cases, would introduce inconsistency of principle, lack of uniformity and an element of unpredictability for the assessment of compensation. Some judgments of the High Courts have justified a departure from the multiplier method on the ground that Section 110B of the Motor Vehicles Act, 1939, insofar as it envisages the compensation to be 'just', the Statutory determination of 'just' compensation would unshackle the exercise from any rigid formula. It must be borne in mind that the multiplies method is the accepted method of ensuring a 'just' compensation which will make for uniformity and certainly of the awards". The Supreme Court relied on the observations of LORD WRIGHT in DAVIES v. POWELL DUFFRYN ASSOCIATED COLLIERIES LTD., 1942 AC. 601: "The damages are to be based on the reasonable expectation of pecuniary benefit or benefit reducible to money value. In assessing the damages, all circumstances which may be legitimately pleaded in diminution of the damages must be considered… The actual pecuniary loss of each individual entitled to sue can only be ascertained by balancing, on the one hand, the loss to him of the future pecuniary benefit, and on the other any pecuniary advantage which from whatever source comes to him by reason of the death. 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… " Adopting and adapting the said principle, the Supreme Court further held thus in SUSAMMA THOMAS, regarding calculation of loss of dependency: "The manner of arriving at the damages is to ascertain the net income of the deceased available for the support of himself and his dependants, and to deduct there from such part of his income as the deceased was accustomed to spend upon himself, as regards both self-maintenance and pleasure, and to ascertain what part of his net income the deceased was accustomed to spend for the benefit of the dependants. Then that should be capitalised by multiplying it by a figure representing the proper number of year's purchase. The multiplier method involves the ascertainment of the loss of dependency or the multiplicand having regard to the circumstances of the case and capitalizing the multiplicand by an appropriate multiplier. The choice of the multiplier is determined by the age of the deceased (or that of the claimants whichever is higher) and by the calculation as to what capital sum, if invested at a rate of interest appropriate to a stable economy, would yield the multiplicand by way of annual interest. In ascertaining this, regard should also be had to the fact that ultimately the capital sum should also be consumed up over the period for which the dependency is expected to last."The multiplier represents the number of years' purchase on which the loss of dependency is capitalized…. Usually in English Courts the operative multiplier rarely exceeds 16 at maximum. This will come down accordingly as the age of the deceased person (or that of the dependants, whichever is higher) goes up." A Division Bench of this Court in H.T. BHANDARY v. MUNIYAMMA, explained how the multiplier should be selected in each case: "This brings down the basic multiplies to the operative multiplies of 16. This multiplier of 16 would by the highest applicable. If the deceased person was, say between 18 and 22 years this multiplier 16 would be appropriate. It will naturally come down according to the age of the deceased at the time of death increases. As a rough and ready estimate, it may broadly be estimated that the multiplier goes down by one count for the increase of the age of the deceased by every five years." 14. The principles laid down in SUSAMMA THOMAS, in regard to multiplier method were reiterated by the Supreme Court in UPSRTC v. TRILOK CHANDRA, ILR 1996 KAR 2127: "We thought it necessary to reiterate the method of working out just compensation because, of late, we have noticed from the awards made by Tribunals and Courts and that the principle on which the multiplier method was developed has been lost sight of and once again a hybrid method based on the subjectivity of the Tribunal/Court has surfaced, introducing uncertainty and lack of reasonable uniformity in the matter of determination of compensation.... Under the formula advocated by Lord Wright in Davies, the loss has to be ascertained by first determining the monthly income of the deceased, then deducting therefrom the amount spent on the deceased, and thus assessing the loss to the dependents of the deceased. The annual dependency assessed in this manner is then to be multiplied by the use of an appropriate multiplier." However the maximum multiplier which was indicated as 16 in SUSAMMA THOMAS was revised as 18 having regard to the changes brought in by Amendment Act 54 of 1994. The principles in SUSAMMA THOMAS have been repeatedly reiterated by the Supreme Court in several decisions, one of the latest being MUNICIPAL CORPORATION OF GREATER BOMBAY v. LAXMAN IYER, 2003 AIR SCW 5505. 15. Where a breadwinner dies and his wife, children and parents, who are normally depending on the deceased, claim compensation, the method of computation is now standardized. The Court first finds out the income of the deceased, then estimates how much he would have spent for himself (for his personal and living expenses). The balance is taken as the contribution to the dependents (family). The said estimate of the amount contributed to the family per year, which is the annual dependency, becomes the basis for arriving at the compensation. It is converted into a lump sum by multiplying it by the number of years during which he would have contributed to the family (duly scaled down to take several uncertainties into account). Thus, the annual dependency becomes the multiplicand and the number of years' purchase becomes the multiplier. As it is well settled that there cannot be a duplication of award under Sections 1A and 2 of the FA Act, where the main head for award of compensation is loss of dependency, the Courts will not duplicate the award under the head of loss of estate. Instead a conventional sum (Say Rs. 10,000/-) is awarded under the head of loss of estate, where the income has already been taken note of under the head of loss of dependency. 16. But, what would be the position if the claimant, though a legal heir is not a dependant of the deceased? Obviously, the question of awarding any amount under the head of loss of dependency would not arise, as there was no financial dependency. In fact in this case, the deceased was not even managing the 'house hold' as is normally done by a housewife as the husband and wife were living in different places due to exigencies of service and the couple had no children. In such a case, the main head of compensation will be loss to estate under Section 2 of the Fatal Accidents Act. The claim petition becomes one on behalf of the estate of the deceased and the compensation received becomes part of the assets of the estate. Consequently what is to be awarded under the head of loss of dependency under Section 1A would be nil, as there is no real pecuniary loss to the members of the family. 17. In GAMMELL v. WILSON, 1981(1) ALL ER. 578 the House of Lords held that in addition to the conventional and moderate damages for loss of expectation of life, damages for loss to the estate should include damages for loss of earnings of the lost years. The annual loss to the estate was computed to be the amount that the deceased would have been able to save after meeting the cost of his living and damages for loss to the estate were computed after applying a suitable multiplier to the annual loss. GAMMEL was relied on in SUSAMMA THOMAS (Supra) and by the Madhya Pradesh High Court in RAMESH CHANDRA v. M.P.STATE ROAD TRANSPORT CORPORATION, 1983 ACC. C.J 221“. 18. In MADHYA PRADESH STATE ROAD TRANSPORT CORPORATION v. SUDHAKAR, 1977 ACJ 290 the Supreme Court considered a case where an employed husband claimed compensation in regard to the death of his wife who was employed on a monthly salary of Rs. 200/- to Rs. 250/-. The Supreme Court observed:”We find it difficult to agree that only half of that amount would have been sufficient for her monthly expenses till she retired from service, so that the remaining half may be taken as the measure of her husband’s monthly loss. It is not impossible that she would have contributed half of her salary to the household, but then it is reasonable to suppose that the husband who was employed at slightly higher salary would have contributed his share to the common pool which would have been utilised for the lodging and boarding of both of them. We do not therefore think it is correct to assume that the husband’s loss amounted to half the monthly salary the deceased was likely to draw until she retired. If on an average she contributed Rs. 100/- every month to the common pool, then his loss would be roughly not more than Rs. 50/-per month." 19. We may summarise the principles enunciated, thus: (i) The law contemplates two categories of damages on the death of a person. The first is the pecuniary loss sustained by the dependant members of his family as a result of such death. The second is the loss caused to the estate of the deceased as a result of such death. In the first category, the action is brought by the legal representatives, as trustees for the dependants beneficially entitled. In the second category, the action is brought by the legal representatives, on behalf of the estate of the deceased and the compensation, when recovered, forms part of the assets of the estate. In the first category of cases, the Tribunal in exercise of power under Section 168 of the Act, can specify the persons to whom compensation should be paid and also specify how it should be distributed (Note: for example, if the dependants of a deceased Hindu are a widow aged 35 years and mother aged 75 years, irrespective of the fact that they succeed equally under Hindu Succession Act, the Tribunal may award a larger share to the widow and a smaller share to the mother, as the widow is likely to live longer). But in the second category of cases, no such adjustments or alternation of shares is permissible and the entire amount has to be awarded to the benefit of the estate. Even if the Tribunal wants to specify the sharing of the compensation amount, it may have to divide the amount strictly in accordance with the personal law governing succession, as the amount awarded and recovered forms part of the estate of the deceased. (ii) Where the claim is by the dependants, the basis for award of compensation is the loss of dependency, that is loss of what was contributed by the deceased to such claimants. A conventional amount is awarded towards loss of expectation of life, under the head of loss to estate. (iii) Where the claim by the legal representatives of the deceased who were not dependants of the deceased, then the basis for award of compensation is the loss to the estate, that is the loss of savings by the deceased. A conventional sum for loss of expectation of life, is added. (iv) The procedure for determination of loss to estate is broadly the same as the procedure for determination of the loss of dependency. Both involve ascertaining the multiplicand and capitalising it by multiplying it by an appropriate multiplier. But, the significant difference is in the figure arrived at as multiplicand in cases where the claimants who are dependants claim loss of dependency, and in cases where the claimants who are not dependents claim loss to estate. The annual contribution to the family constitutes the multiplicand in the case of loss of dependency, whereas the annual savings of the deceased becomes the multiplicand in the case of loss to estate. The method of selection of multiplier is however the same in both cases. 20. The following illustrations with reference to the case of a deceased who was aged 40 years with a monthly income of Rs. 9000/ will bring out the difference between cases where claimants are dependents and cases were claimants are not dependents. (i) If the family of the deceased consists of a dependant wife and child, normally one-third will be deducted towards the personal and living expenses of the deceased. The balance of Rs. 6000/- per month (or Rs. 72000/- per annum) will be treated as contribution to the dependent family. The loss of dependency will be arrived by applying a multiplier of 14. The loss of dependency will be Rs. 10,08,000/- plus Rs. 10,000/- under the head of loss of Estate. (ii) If the family of the deceased was larger, say consisting of dependent parents, wife and two children, necessarily the deceased would spend more on his family and the deduction towards personal and living expenses of the deceased will shrink to one-fifth instead of one-third (Note: In Gulam Khader v. United India Insurance Co., Ltd., - ILR 2000 Kar 4416 detailes of this illustration have been given). Therefore the deduction toward personal and living expense would be Rs. 1800/- per month (one-fifth of Rs. 9000/-) and contribution to the family would be Rs. 7200/- per month or Rs. 86,400/- per annum. Thus loss of dependency will be Rs. 12,09,600/- (by applying the multiplier of 14). The award under the head of loss of estate would be Rs. 10000/-. (iii) If the deceased was a bachelor with dependent parents aged 65 and 60 years, normally 50% will be deducted towards personal and living expenses of the deceased. This is because a bachelor will be more care free as he had not yet acquired a wife or child and therefore would tend to spend more on himself. There was also a possibility of the bachelor getting married in which event the contribution to parents will get reduced. Therefore the contribution to the family (parents) will be Rs. 4500/- per month or Rs. 54000/- per annum. As the multiplier will be 10 with reference to age of the mother, the loss of dependency will be Rs. 5,40,000/-. Loss of Estate would be a conventional sum of Rs. 10,000/-. Note: The above three illustrations relate to cases where the claimants are dependants. The said illustration demonstrate that even though the income of the deceased and age of the deceased are the same, the 'loss of dependency' will vary, having regard to the number of dependants, age of the dependants and nature of dependency. The ensuing illustrations relate to cases where the legal heirs of the deceased are not dependants. (iv) If the deceased is survived by an educated employed wife earning an amount almost equal to that of her husband and if each was maintaining a separate establishment, the question of 'loss of dependency' may not arise. Each will be spending from his/her earning towards his living and personal expenses. Even if both pool their income and spend from the common income pool, the position will be the same. In such a case the amount spent for personal and living expenses by each spouse from his/her income will be comparatively higher, that is three-fourth of his/her income. Each would be saving only the balance, that is one fourth (which may be pooled or maintained separately). If the saving is taken as one-fourth (that is 25%), the loss to the estate would be Rs. 2250/- per month or Rs. 27000/- per annum, By adopting the multiplier of 14, the loss to estate will be Rs. 3,78,000/-. Note: The position would be different if the husband and wife, were both earning, and living together under a common roof, sharing the expenses. As stated in BURGESS v. FLORENCE NIGHTINGALE HOSPITAL (1955(1) Q.B. 349), 'when a husband and wife, with separate incomes are living together and sharing their expenses, and in consequence of that fact, their joint living expenses are less than twice the expenses of each one living separately, then each, by the fact of sharing, is conferring a benefit on the other'. This results in a higher savings, say, one-third of the income; In addition each spouse loses the benefit of services rendered by the other in managing the household, which can be evaluated at say Rs. 1,000/- per month or Rs. 12,000/- per annum). In such a situation, the claimant (surviving spouse) will be entitled to compensation both under the head of loss of dependency (for loss of services rendered in managing the household) and loss to estate (savings to an extent of one-third of the income that is Rs. 3,000/- per month or Rs. 36000/- per annum). Therefore, the loss of dependency would be 12000x14=168,000/- and loss to estate would be 36000x14=504,000/-. In all Rs. 6,72,000/- will be the compensation. (v) If the deceased was a bachelor and the claimants are two non-dependent brothers/sisters aged 47 years and 45 years with independent income, the position would be different. As the deceased did not have a 'family', the tendency would be to spend more on oneself and the savings would be hardly 15%. If the saving is taken as 15% (Rs. 1350/- per month), the annual savings would be Rs. 16,200/- which would be the multiplicand. The multiplier will be 13 with reference to the age of the claimants and the loss of estate would be Rs. 2,10,600/- per annum. Though the quantum of savings will vary from person to person, there is a need to standardise the quantum of savings for determining the loss to estate (where the claimants are not dependants) in the absence of specific evidence to the contrary. The quantum of savings can be taken as one-third of the income of the deceased where the spouses are having a common establishment and one-fourth where the spouses are having independent establishments. The above will apply where the family consists of non-dependant spouse/children/parents. Where the claimants are non-dependant brothers/sisters claiming on behalf of the estate, the savings can be taken as 15 % of the income. The above percentages, one of course, subject to any specific evidence to the contrary led by the claimants. 21. We will now return to the facts of this case. In this case, as noticed above, the husband was living in Coimbatore and the wife was living near a place of her work (Tiruppur). Therefore, the husband (Appellant) had a separate establishment at Coimbatore and was living from his income. The wife (deceased) was having a separate establishment at Sowripalyam near Tiruppur and was living from her income. As the parties were residing at different places and were supporting themselves from their respective income, as noticed above, the question of loss of dependency will not arise. In such circumstances, the amount spent towards the expenses of living and personal expenses of the deceased can safely be taken as three-fourth of her income. The balance of one-fourth will be her saving or contribution to, the common saving pool. 22. At the time of death, the deceased was working as a Senior Scale Lecturer in a Government College and her total emoluments were Rs. 5,850/-. The evidence shows that she was Government servant aged 37 years in permanent employment and her basic pay was Rs. 3,300/-in the time scale of pay of Rs. 3000-100-3500-125-5000. She was entitled to annual increments. The evidence also shows that the deceased had reasonable prospects of obtaining a promotion, as a selection Grade Lecturer, and later as Principal. In the circumstances, the income of the deceased should be assessed with reference to her prospects to get increments and promotions. -vide SUSAMMA THOMAS [supra], SARALA DIXIT v. BALWANT YADAV, and ABATI BEZARUAH v. DEPUTY DIRECTOR GENERAL, GSJ, 2003 AIR SCW 1266. Even if promotions were not certain there was no uncertainty of her reaching the maximum in her of time scale of pay and with allowances. By taking the average of her actual salary at the time of her death and the salary she would have reached on account of future increments/advancements, her monthly income can safely be aassessed as Rs. 8,000/- after deduction of income tax. 23. If three-fourths (75%) is deducted towards living and personal expenses of the deceased, the savings of the deceased would have been Rs. 2,000/- per month of Rs. 24,000/- per annum. As the appellant (husband of claimant) was younger than his deceased wife, the age of the deceased is relevant for determining the multiplier. As the deceased was aged 37 years, the applicable multiplier is 15. Therefore, the total loss to the estate would be Rs. 3,60,000/- (loss of savings) plus Rs. 10,000/- (loss of expectation of life) in all Rs. 3,70,000/-. In addition, we award Rs. 10,000/- as loss of consortium, Rs. 10,000/- towards funeral expenses and Rs. 10,000/- towards treatment and transportation expenses (from place of accident to Davangere, Davangere to Bangalore and Bangalore to native place). Thus the total compensation to which the claimant will be entitled to is Rs. 4,00,000/-. 24. The Tribunal has awarded interest at the rate of 9% p.a. Learned Counsel for the respondents contended that the interest should be reduced in regard to the increased compensation. The learned Counsel for the appellant on the other hand submitted that interest should be maintained at 9% PA. In KAUSHNUMA BEGUM v. NEW INDIA ASSURANCE CO. LTD., 2001 AIR SCW 85 the Supreme Court has laid down the following principle with regard to interest: "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 the 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 herein before shall bear interest at the rate of 9% per annum from the date of the claim made by the appellants." We can take judicial notice of the fact that the rate of interest paid by nationalised Banks on fixed deposits for one year which was 9% PA when KAUSHNUMA BEGUM was decided has now stood reduced to 5 to 6% per annum. We accordingly award the interest at the rate of 6% PA on the enhanced amount, without disturbing the interest on the amount awarded by the Tribunal. 25. In the result, this appeal is allowed in part as follows: a) The compensation awarded is increased from Rs. 2,58,000/-to Rs. 4,00,000/- (Four Lakhs). b) The claimant will be entitled to interest at the rate of 9% P.A on the amount awarded by the Tribunal [Rs. 2,58,000] and at the rate of 6% P.A. on the enhanced amount of Rs. 1,42,000/- from the date of petition till date of payment. c) 50% of the increased compensation amount shall be kept in a fixed deposit in any nationalised bank for a period of five years, with liberty to draw interest. d) In other respects, the judgment and award of the Tribunal remain unaltered. e) Both parties to bear their respective costs.