

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR  
AND  
THE HONOURABLE MR. JUSTICE M.VENUGOPAL

C.M.A.No.3273 of 2014  
M.P.Nos.1 of 2014 and 1 of 2015  
C.M.A.No.723 of 2015  
M.P.Nos.1 and 2 of 2015  
C.M.A.No.2386 of 2015  
M.P.Nos.1 and 2 of 2015

(C.M.A.No.3273 of 2014)

M/s.Royal Sundaram Alliance Insurance Co. Ltd.,  
No.8/H-1, Mangalam Building 4 Road,  
Salem 636 009.

... Appellant

vs.

1. Tmt.Vennila  
2. Govindammal  
3. Perumal  
4. Alamelu  
5. Muniyammal  
6. Madheswaran

... Respondents

Civil Miscellaneous Appeal filed under Section 173 Motor Vehicles Act, 1988 against the award and decree, dated 31.10.2013 made in M.C.O.P.No.549 of 2012, on the file of the Motor Accidents Claims Tribunal, (Additional District Court), Dharmapuri.

For Appellant : Mr.M.B.Gopalan

For Respondents 1 to 3 : Mr.G.K.Sekar

**(C.M.A.No.723 of 2015)**

M/s.Royal Sundaram Alliance Insurance Co. Ltd.,  
No.8/H-1, Mangalam Building 4 Road,  
Salem 636 009.

... Appellant

vs.

1. Ambiga  
2. Poovarasan (Minor)  
3. Sandhiya (Minor)  
4. Palaniammal  
5. Govindan  
6. M.M.Contractor,  
No.245, South Metha Street,  
Thiruvagoundanoor,  
Salem, Tamil Nadu.  
(Respondents 2 and 3 (Minors),  
rep., by the 1<sup>st</sup> respondent)

... Respondents

Civil Miscellaneous Appeal filed under Section 173 Motor Vehicles Act, 1988 against the award and decree, dated 10.09.2014, made in M.C.O.P.No.253 of 2014, on the file of the Motor Accidents Claims Tribunal, (Special District Court), Dharmapuri.

For Appellant : Mr.M.B.Gopalan

For Respondents 1 to 5 : Mr.S.Sathieseelan

**(C.M.A.No.2386 of 2015)**

The Managing Director,  
Metropolitan Transport Corporation (Chennai) Ltd.,  
Pallavan House, Anna Salai, Chennai-2.

... Appellant

vs.

1. B.Thaniga
2. S.Dhanalakshmi
3. B.Sathya
4. K.Ali
5. B.Anandan

... Respondents

Civil Miscellaneous Appeal filed under Section 173 Motor Vehicles Act, 1988 against the award and decree, dated 22.08.2014 made in M.C.O.P.No.4193 of 2011, on the file of the Motor Accidents Claims Tribunal, (2<sup>nd</sup> Court of Small Causes), Chennai.

For Appellant : Mr.S.Sivakumar

For Respondents 1 to 3 : Mr.D.Velu

#### **COMMON JUDGMENT**

(Judgement of this Court was made by **S. MANIKUMAR, J.**)

C.M.A.No.3273 of 2014 is preferred by M/s.Royal Sundaram Alliance Insurance Co. Ltd., Salem, challenging the compensation of Rs.25,61,000/-, awarded to legal representatives of the deceased, in M.C.O.P.No.549 of 2012, dated 31.10.2013, on the file of the Motor Accident Claims Tribunal, Additional District Court, Dharmapuri.

2. In C.M.A.No.723 of 2015, M/s.Royal Sundaram Alliance Insurance Co. Ltd., Salem, has challenged the award made in M.C.O.P.No.253 of 2014, dated 10.09.2014, by which, the Motor Accident

Claims Tribunal, Special District Court, Dharmapuri, has awarded Rs.18,82,600/- with interest, at the rate of 7.5% per annum, from the date of claim, till the date of realisation.

3. In C.M.A.No.2386 of 2015, the Managing Director, Metropolitan Transport Corporation (Chennai) Ltd., Chennai, has filed an appeal, with a delay of 20 days, challenging the award made in M.C.O.P.No.4193 of 2011, dated 22.08.2014, on the file of the Motor Accident Claims Tribunal (2<sup>nd</sup> Court of Small Causes), Chennai, by which, compensation of Rs.16,10,000/- has been awarded to the legal representatives of the deceased.

4. In all the appeals, the common issue, raised by the Insurance Company as well as the Transport Corporation, is that the Tribunals, while passing awards, as stated supra, have erred in fixing the monthly income of the deceased, in each of the appeals and should not add up income, under the head, future prospects, for the purpose of computing compensation to be paid to the family of the deceased. Contentions have been raised that except in the case of salaried persons, where there is a permanent source of income, there should not be any addition, towards future prospects, for computing the loss of contribution to the bereaved family.

5. On the contra, it is the contention of the learned counsel for the respondents/claimants that considering the escalation in the price of essential commodities, fuel, electricity and other factors, affecting the living conditions, wages or salary or earning in the case of self-employed has increased, and hence, the Tribunals/Courts should add up income, under the head, future prospects, while computing compensation. On merits, in respect of each of the appeals, arguments have been advanced that there should be increase in the quantum of compensation.

6. Reference has also been made to the judgments of the Apex Court in **National Insurance Co. Ltd., v. Pushpa [SLP(C)No.8058 of 2014, dated 31.10.2013]** and **Shashikala v. Gangalakshamma** reported in **2015 (3) MLJ 373 (Decided on 13.03.2015)**, where a Hon'ble Division Bench of the Supreme Court has sought for reference, in the matter of adding up a percentage of income, under the head, future prospects and based on the above reference, contentions have been made. Per contra, it is the contention of the learned counsel for the respondents/claimants, future prospects have been considered in **Kalpanaraj v. Tamil Nadu State Transport Corporation** reported in **2015 (2) SCC 764 (decided on 22.04.2014)** and therefore, there is no error, in cases, where, future prospects have been considered.

On the issue raised in the appeals, as to whether, the Tribunals can award compensation, by adding up certain percentage of income under the head, future prospects, we propose to dispose of the appeals, by a common order, besides considering each case, on its merits.

7. In C.M.A.No.723 of 2015, filed by M/s.Royal Sundaram Alliance Insurance Co. Ltd., Salem, it is the version of the respondents/claimants that in the accident, which occurred on 17.11.2012, Muthusamy, a 34 year old man, claimed to have owned a grocery shop, besides engaged in Agriculture, sustained grievous injuries. Initially, he was provided treatment in Government Hospital, Dharmapuri and thereafter, referred to Mohan Kumaramangalam Hospital, Salem. He was inpatient between 17.11.2012 and 23.11.2012. Despite intensive treatment, he died. Wife, aged 27 years, minor son, aged 12 years, minor daughter, aged 10 years and parents, aged 55 and 65 years, have preferred a claim petition in M.C.O.P.No.131 of 2013, before the District Court, Dharmapuri, claiming compensation of Rs.15,00,000/-. The said claim petition has subsequently been transferred to the Motor Accident Claims Tribunal (Special District Court), Dharmapuri and re-numbered as M.C.O.P.No.253 of 2014.

8. Before the Tribunal, the claim of the respondents/claimants was that at the time of accident, Muthusamy was aged 34 years. He owned a grocery shop, besides engaging in Agriculture and earned Rs.8,000/- per month. There was no income proof. However, upon perusal of the contents of Ex.P8, Notices (2) sent by the Syndicate Bank, Mattalampati to the deceased, Muthusamy, the Tribunal has found that the said loan had been obtained only for the grocery shop and as he had defaulted, notices have been issued by the Bank. Upon perusal of Ex.P10, Patta (2), the Tribunal has also noticed that the deceased owned agricultural lands. Having regard to the number of dependants, viz., five and the documents, Exs.P8 and P10, stated supra, the Tribunal came to the conclusion that the deceased would have earned Rs.8,000/- per month. Thus, the Tribunal has fixed the monthly income as Rs.8,000/-.

9. Mr.M.B.Gopalan, learned counsel for the appellants in C.M.A.No.723 of 2015, contended that the Tribunal has grossly erred in fixing the monthly income of the deceased as Rs.8,000/-, when there was no proof for the income and further contended that in such circumstances, notional income alone ought to have been taken into account, for the purpose of computing the loss of contribution of the family.

10. Ex.P8, Notices (2) sent by the Syndicate Bank, Mattalampati to the deceased, for recovery of the loan borrowed for the grocery shop, support the case of the respondents/claimants, as regards the avocation claimed. From the said business, one could reasonably expect that he would have earned Rs.5,000/- to Rs.7,000/- per month. Ex.P10, Patta (2), indicates that the deceased owned and possessed agricultural lands. The accident occurred in Dharmapuri District.

11. During the course of hearing, Mr.S.Sathiaseelan, learned counsel for the respondents/claimants submitted that the extent of land covered under Ex.P10, was four acres. Even taking it for granted, there is a diminution in agricultural income, considering the extent of land, stated to have owned and possessed by the deceased and the agricultural activity, the possibility of augmenting some more income, from the agricultural lands, cannot be ruled out.

12. But placing reliance on a decisions in **Syed Sadiq etc. Vs. Division Manager, United India Insurance Company Limited** reported in **2014(1) TNMAC 459**, Mr.S.Sathiaseelan, learned counsel for the respondents/claimants submitted that he has no objection, for the income being fixed at Rs.6,500/-, as done by the Hon'ble Apex Court, in



the above reported judgment, in the case of a vegetable vendor. In the reported case, the accident occurred in the year 2008 and the Apex Court fixed the monthly income as Rs.6,500/-. In the present case, the accident occurred on 20.02.2012. At the time of accident, the deceased was aged 34 years. There is no quarrel over the determination of the age, done as per the entry in Ex.P3 - Post-Mortem Certificate and such determination is also supported by declaration in the claim petition and fortified by the decisions of the Hon'ble Apex Court in **Fakeerappa v. Karnataka Cement Pipe Factory** reported in **2004 (4) LW 20** and **The Managing Director, Tamilnadu State Transport Corporation, Madurai v. Mary** [2005 (5) CTC 515].

13. By determining the monthly income as Rs.8,000/- and thereafter, adding 30% of the monthly income, towards future prospects and after deducting  $1/4^{\text{th}}$  towards the personal and living expenses and by application of '16' multiplier, the Tribunal has computed the loss of contribution to the family as Rs.14,97,600/-. In addition to the above, the Claims Tribunal has awarded Rs.50,000/- each, under the head, loss of love and affection, to each of the claimants, which works out to Rs.2,50,000/-. Under the head, loss of consortium, to the 1<sup>st</sup> respondent/claimant, the Claims Tribunal has awarded Rs.1,00,000/-. In

addition to the above, the Claims Tribunal has awarded Rs.10,000/- towards transportation and Rs.25,000/- towards Funeral Expenses. In all, the Tribunal has awarded Rs.18,82,600/- as total compensation.

14. Though in C.M.A.No.723 of 2015, it is the objection of M/s.Royal Sundaram Alliance Insurance Co. Ltd., Salem that the Tribunal ought not to have added up 30% towards future prospects, considering the age of the deceased, 34 years and the number of dependents, it is the contrary contention of Mr.S.Sathieseelan, the learned counsel for the respondents/claimants that the Tribunal ought to have added 50% towards future prospects, while determining the monthly income. It is also his contention that compensation awarded under the heads, loss of love and affection and the loss of contribution to the family, should be enhanced, as the compensation awarded by the Tribunal, under the above heads, is not just. He also submitted that before the death, the deceased was hospitalised in Mohan Kumaramangalam Hospital, Salem, between 17.11.2012 and 23.11.2012 and underwent surgery and therefore, the Tribunal ought to have awarded compensation, under the head, pain and suffering, to the respondents/claimants.

15. In C.M.A.No.3273 of 2014, the accident has occurred on 20.02.2015. Govindasamy, rider of a Motor Cycle (Hero Honda), bearing Registration No.TN 29 AJ 0410, aged about 35 years, died. He was stated to be a lorry owner cum driver. Wife, aged 22 years, parents, aged 58 and 60 years and daughters, aged 42 and 37 years, respectively, have preferred a claim for compensation of Rs.15,00,000/-.

16. To support the contention that the deceased owned a lorry, bearing Registration No.TN 30 S 5400, Ex.P10, document has been marked. Upon perusal of the same, the Claims Tribunal has observed that the deceased had purchased the said lorry from one Gomathi. Going through Ex.P11, the Tribunal has also found that the permit in the name of Gomathi had been transferred in the name of Govindasamy. Ex.P12 is the driving licence of the deceased and Ex.P13 is the Pan Card. Thus, after considering the abovesaid documents, marked on the side of the respondents/claimants, the Claims Tribunal has arrived at the conclusion that the deceased was a lorry owner cum driver.

17. PW.1, wife of the deceased, has deposed that the deceased earned Rs.20,000/- per month. But the Tribunal, fixed the same, only as Rs.15,000/- per month, and adding up 30% towards future prospects,

fixed the monthly income at Rs.19,500/- for computing the loss of contribution to the family. Sisters were not awarded any compensation. The number of dependants were reduced to three. The Tribunal applied '16' multiplier, as per the 2<sup>nd</sup> Schedule to Section 163-A of the Motor Vehicles Act and deducted 1/3<sup>rd</sup> towards the personal and living expenses of the deceased and accordingly, computed the loss of contribution to the family, as Rs.24,96,000/- ( $\text{Rs.19,500} \times 16 \times 12 \times 1/3$ ).

18. In addition to the above, the Claims Tribunal has awarded Rs.10,000/- each to the wife and parents, under the head loss of love and affection. Rs.5,000/- is awarded towards Funeral Expenses and another sum of Rs.5,000/- under the head, transportation. The Tribunal has awarded Rs.25,000/- as loss of consortium. Altogether, the Claims Tribunal has awarded Rs.25,61,000/-, with interest, and apportioned the compensation, stating that the wife would be entitled to Rs.8,70,334/- and the parents would be entitled to Rs.8,45,333/- each.

19. Here again, the contention of M/s.Royal Sundaram Alliance Insurance Co. Ltd., Salem, is that the Claims Tribunal has erred in fixing the monthly income of the deceased, as Rs.15,000/-, without any evidence and also erred in adding up 30% of the future prospects, which is

not warranted, when determination of the monthly income of the deceased itself, is without proof and excessive.

20. On the determination of monthly income of Rs.15,000/-, Mr.G.K.Sekar, learned counsel for the respondents/claimants submitted that the monthly income of the deceased fixed by the Tribunal as Rs.15,000/-, by operating a lorry with a national permit, by the owner-cum-driver, cannot be said to be without any basis and more so, when Ex.P11 - Transfer of Permit, Ex.P12 - Driving Licence and Ex.P13 - Pan Card, have been produced before the Tribunal, to support the contention of avocation and income.

21. It is also the contention of the learned counsel for the respondents/claimants that as the deceased was aged 35 years, the Tribunal ought to have added 50% towards future prospects, for determining the loss of dependency. He also prayed for suitable enhancement of compensation, under the heads, loss of consortium, loss of love and affection and funeral expenses. He pointed out that there is no award for conventional damages. For the abovesaid reasons, he prayed this Court to grant a reasonable compensation.

22. In C.M.A.No.2386 of 2015, that on 28.07.2011, about 05.20 P.M., the deceased, B.Yasodha, aged about 53 years, was waiting at Thiruvotiyur bus stop, near Railway Gate, to go to her home and a bus, bearing Registration No.TN 01 N 5614, owned by the appellant-Transport Corporation, came from East to West direction, and stopped near the Railway Gate. When the deceased was boarding the bus, without noticing her, the driver suddenly started the bus, in a rash and negligent manner, due to which, she fell down from the bus and sustained grievous injuries, which resulted in death. In this regard, a case in Cr.No.144/H1/2011, has been registered against the driver of the bus, on the file of H-1 Traffic Investigation Washermenpet Range.

23. Though the appellant-Transport Corporation has defended negligence, attributed against the driver of the bus, by stating that when the driver stopped the bus, near the Railway Gate, the deceased attempted to board the moving bus, through the front door, upon evaluation of pleadings and evidence, the Claims Tribunal has rejected the said defence and held that the driver of the bus, was negligent in causing the accident.

24. Perusal of the impugned judgment shows that to prove the manner of accident, PW.1, Mr.B.Thanga, has adduced evidence and marked Ex.P1 - FIR in Cr.No.144/H1/2011, registered against the driver of the bus, on the file of H-1 Traffic Investigation Washermenpet Range. PW.2, Mr.Ramesh, stated to have witnessed the accident, has supported the manner of accident. Though RW.1, driver of the bus, has deposed that at the time of accident, the deceased, who attempted to board the moving bus, lost her grip, fell down and succumbed to the fatal injuries and that there was a case of contributory negligence, the Claims Tribunal, by observing that the testimony of PW.2, eye-witness, was cogent and nothing has been elicited, in his cross-examination to discredit his reliability and held that it was RW.1, driver of the bus, was negligent in causing the accident.

25. Though in the present appeal, the appellant-Transport Corporation has contended that the Claims Tribunal has erred in fixing negligence on the driver of the bus, when the accident occurred only due to the negligence of the deceased, this Court is not inclined to accept the same, for the reason that it is the fundamental duty of the crew viz., driver and conductor to see whether any passenger is getting into the bus or getting down from the bus before moving the bus. It is also the duty of

the driver and conductor to caution the passengers when they attempt to get down, irrespective of the fact whether that place is a bus stop or not. Reference can be made to the decisions made in **Venkataswami Motor Service v. C.K.Chinnaswamy and others [1998 ACJ 371]**, **M.Jagannathan v. Pallavan Transport Corporation Ltd., [1999 ACJ 366]** and **Tamil Nadu State Transport Corporation (Madurai Division III) Ltd. v. Saraswathi and four others [2000 (1) LW 318]**.

26. It is settled law that in matters relating to Motor Accidents Claims, it is sufficient that there is preponderance of probability to the manner of accident and strict proof of evidence is not required. In the instant case, no concrete material is available to reverse the order of the Tribunal. On the other hand, there is ample evidence to conclude that the accident had occurred in the manner as detailed by the claimant. Therefore, the finding of the Tribunal regarding negligence is confirmed.

27. On the quantum of compensation, it was claimed by the respondents/claimant that the deceased was aged 53 years, but there is no documentary evidence. However, the Claims Tribunal, upon perusal of the entires made in Ex.P2 - Post-Mortem Certificate, fixed the age of the deceased as 54 years, at the time of accident. Before the Claims



Tribunal, the respondents/claimants have filed Ex.P4 - Legal Heirs Certificate and upon perusal of the same, the Claims Tribunal satisfied itself that the respondents/claimants are the sons and daughters of the deceased. However, during the pendency of the claim petition, the 3<sup>rd</sup> claimant, B.Sathya, died on 29.10.2012 and his death certificate has been marked as Ex.P7. Therefore, the Claims Tribunal has come to the conclusion that the respondents 1, 2, 4 & 5/claimants are entitled to compensation.

28. Before the Claims Tribunal, it was the contention of the respondents/claimants that the deceased was a Senior Factory Assistant in Tamil Nadu Co-operative Milk Federation Limited and earned Rs.18,900/- per month. As per Ex.P6 - Pay Slip, for the month of April, 2011, the gross income of the deceased was Rs.18,900.40ps. Upon perusal of the same, the Claims Tribunal has noticed that deductions were not mentioned clearly and no signature was there. To prove the income, no employer was examined. Therefore, the Claims Tribunal has fixed the monthly income at Rs.15,000/-. Having regard to the age of the deceased, 54 years, as per **Sarla Verma v. Delhi Transport Corporation Ltd.**, reported in **2009 (2) TNMAC 1**, the Tribunal applied '11' multiplier and computed the dependency compensation, by deducting 1/4<sup>th</sup> towards

the personal and living expenses of the deceased. Thus, the Tribunal has arrived the pecuniary loss at Rs.14,85,000/-.

29. That apart, the Claims Tribunal has awarded Rs.1,00,000/- as compensation, under the head, loss of love and affection to the respondents/claimants. A sum of Rs.25,000/- is awarded under the head, funeral expenses. Altogether, the Claims Tribunal has awarded Rs.16,10,000/-, with interest at the rate of 7.5% per annum, from the date of claim, till deposit.

30. It is the submission of the appellant-Transport Corporation that even though the deceased had only four years of remaining service, as per the decision in **Sarla Verma's** case (cited supra), the Tribunal has applied a higher multiplier of '11' and computed the loss of contribution to the family and therefore, no further addition of income is required.

31. Learned counsel for the respondents/claimants submitted that 10% income ought to have been added, while computing the loss of contribution to the family. He has sought for enhancement under the head, loss of love and affection and prayed for a higher compensation, towards transportation and damages to clothes and articles.

32. The main issue addressed in the present appeals, is whether, the legal representatives of the deceased, self-employed, can seek for determination of income, by adding up certain percentage of income, under the head, future prospects, while computing the loss of contribution of the bereaved family. There are other issues of awarding lesser compensation under other heads.

33. Let us consider the line of the judgments, dealing with the determination of income and the addition component, future prospects.

(i) In Smt.Sarla Verma & Ors. v. Delhi Transport Corporation and another reported in 2009 (2) TNMAC 1 (SC), (Decided on 15.04.2009 by two Judges Bench) at Paragraphs 10 and 11, the Hon'ble Supreme Court held as follows:

“Question (i) - addition to income for future prospects:

10. Generally the actual income of the deceased less income tax should be the starting point for calculating the compensation. The question is whether actual income at the time of death should be taken as the income or whether any addition should be made by taking note of future prospects. In Susamma Thomas, this Court held that the future prospects of advancement in life and career

should also be sounded in terms of money to augment the multiplicand (annual contribution to the dependants); and that where the deceased had a stable job, the court can take note of the prospects of the future and it will be unreasonable to estimate the loss of dependency on the actual income of the deceased at the time of death. In that case, the salary of the deceased, aged 39 years at the time of death, was Rs.1032/- per month. Having regard to the evidence in regard to future prospects, this Court was of the view that the higher estimate of monthly income could be made at Rs.2000/- as gross income before deducting the personal living expenses. The decision in *Susamma Thomas* was followed in ***Sarla Dixit v. Balwant Yadav* [1996 (3) SCC 179]**, where the deceased was getting a gross salary of Rs.1543/- per month. Having regard to the future prospects of promotions and increases, this Court assumed that by the time he retired, his earning would have nearly doubled, say Rs.3000/-. This court took the average of the actual income at the time of death and the projected income if he had lived a normal life period, and determined the monthly income as Rs.2200/- per month. In ***Abati Bezbaruah v. Dy. Director General, Geological Survey of India* [2003 (3) SCC 148]**, as against the actual salary income of Rs.42,000/- per annum, (Rs.3500/- per month) at the time of accident, this court assumed the income as Rs.45,000/- per annum, having regard to the future prospects and career advancement of the deceased who was 40 years of age.

11. In *General Manager, Kerala State Road Transport Corporation v. Susamma Thomas*, [1994 (2) SCC 176], this Court increased the income by nearly 100%, in *Sarla Dixit*, the income was 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, 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 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 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."

(ii) The Hon'ble Supreme Court in **R.K.Malik v. Kiran Pal** reported in **2009 (1) TNMAC 593 (SC) (Decided on 15.05.2009 by two Judges Bench)**, standardised the payment of compensation for the death of children, upto the age of 18 years, by applying different multipliers, taking the notional income of Rs.15,000/- per annum. The quantum of compensation towards non-pecuniary loss of Rs.75,000/- and a further compensation of Rs.75,000/- for future prospects, remain the same, irrespective of the age group. In the reported case, the accident occurred on 18.11.1997, when a School bus, carrying school children, breaking the railing, got drowned in Yamuna river at Wazirabad Yamuna Bridge, killing 29 children. Though all the legal representatives of the deceased filed separate claims, under Section 163-A of the Motor Vehicles Act, 1988, the Tribunal, by its common award, dated 06.12.2004, awarded a sum of Rs.1,55,000/- to the dependents of children between the age group of 10 to 15 years and Rs.1,65,000/- between 15 to 18 years. Three of the children, viz., Kailash Rathi, Neena Jain and Jatish Sharma were less than 10 years. In the case of Kailash Rathi, compensation of Rs.1,05,000/- was awarded and in the cases of Neena Jain and Jatish Sharma, compensation of Rs.1,30,000/- and Rs.1,31,000/- respectively was awarded. In addition to the above, Rs.1,000/- was awarded in the case of Jatish Sharma, as in some other cases, for loss of books. The Tribunal has awarded Rs.5,000/- each towards

funeral and last rites. While computing dependency compensation, Rs.5,000/- was deducted towards personal living expenses, after applying '15' multiplier for children, below 15 years and '16' multiplier for children, between 16 and 18 years respectively. While considering the aspect, as to how, the quantum of compensation to be arrived at, by the Claims Tribunals/Courts, the Apex Court in **R.K.Malik's** case, at Paragraphs 10 to 12 and 14, held as follows:

"10. Undoubtedly, the compensation in law is paid to restore the person, who has suffered damage or loss in the same position, if the tortuous act or the breach of contract had not been committed. The law requires that the party suffering should be put in the same position, if the contract had been performed or the wrong had not been committed. The law in all such matters requires payment of adequate, reasonable and just monetary compensation.

11. In cases of motor accidents the endeavour is to put the dependents/claimants in the pre-accidental position. Compensation in cases of motor accidents, as in other matters, is paid for reparation of damages. The damages so awarded should be adequate sum of money that would put the party, who has suffered, in the same position if he had not suffered on account of the wrong. Compensation is therefore required to be paid for prospective pecuniary loss i.e. future loss of

income/dependency suffered on account of the wrongful act.

12. However, no amount of compensation can restore the lost limb or the experience of pain and suffering due to loss of life. Loss of a child, life or a limb can never be eliminated or ameliorated completely. To put it simply - pecuniary damages cannot replace a human life or limb lost. Therefore, in addition to the pecuniary losses, the law recognises that payment should also be made for non-pecuniary losses on account of, loss of happiness, pain, suffering and expectancy of life, etc. The Act provides for payment of “just compensation” vide Sections 166 and 168. It is left to the Courts to decide what would be “just compensation” in facts of a case.

14. For calculating the yearly Loss of Dependency the starting point is the wages being earned by the deceased, less his personal and living expenses. This provides a basic figure. Thereafter, effect is given to the future prospects of the deceased, inflation and general price rise that erodes value and the purchasing power of money.”

Addressing the problem of quantifying the loss in the case of death of children, the Hon'ble Supreme Court, at Paragraph 15, observed as follows:



"15. The real problem that arises in the cases of death of children is that they are not earning at the time of the accident. In most of the cases they were still studying and not working. However, under no stretch of imagination it can be said that the parents, who are appellants herein, have not suffered any pecuniary loss. In fact, Loss of Dependency by its very nature is awarded for prospective or future loss. In this context, Lord Atkinson aptly observed in *Taff Vale Rly. Co. v. Jenkins* , (1911-13) All E.R. 160 as follows:

"In case of the death of an infant, there may have been no actual pecuniary benefit derived by its parents during the child's lifetime. But this will not necessarily bar the parents' claim and prospective loss will found a valid claim provided that the parents establish that they had a reasonable expectation of pecuniary benefit if the child had lived."

As regards the assessment of non-pecuniary loss, the Supreme Court, at Paragraphs 19 to 23, extracted the decisions, as hereunder:

"19. The other issue is with regard to non-pecuniary compensation to the appellants-dependents on the loss of human life, loss of company, companionship, happiness, pain and suffering, loss of expectation of life etc.

20. In the Halsbury's Laws of England, 4th Edition, Vol. 12, page 446, it has been stated with regard to non-pecuniary

loss as follows:

"Non-pecuniary loss: the pattern.

Damages awarded for pain and suffering and loss of amenity constitute a conventional sum which is taken to be the sum which society deems fair, fairness being interpreted by the Courts in the light of previous decisions. Thus there has been evolved a set of conventional principles providing a provisional guide to the comparative severity of different injuries, and indicating a bracket of damages into which a particular injury will currently fall. The particular circumstance of the plaintiff, including his age and any unusual deprivation he may suffer, is reflected in the actual amount of the award.

The fall in the value of money leads to a continuing reassessment of these awards and to periodic reassessments of damages at certain key points in the pattern where the disability is readily identifiable and not subject to large variations in individual cases."

21. In the case of *Ward v. James*, (1965) 1 All E R 563, it was observed:

"Although you cannot give a man so gravely injured much for his 'lost years', you can, however, compensate him for his loss during his shortened, span, that is, during his expected 'years of survival'. You can compensate him for his loss of earnings during that time, and for the cost of treatment, nursing and attendance. But how can you compensate him for being rendered a helpless invalid? He

may, owing to brain injury, be rendered unconscious for the rest of his days, or, owing to a back injury, be unable to rise from his bed. He has lost everything that makes life worthwhile. Money is no good to him. Yet Judges and juries have to do the best they can and give him what they think is fair. No wonder they find it well nigh insoluble. They are being asked to calculate the figure is bound to be for the most part a conventional sum. The Judges have worked out a pattern, and they keep it in line with the changes in the value of money."

22. The Supreme Court in the case of **R.D.Hattangadi v. Pest Control (India) (P) Ltd., (1995) 1 SCC 551**, at page 556, has observed as follows in para 9:

"9. Broadly speaking while fixing an amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant: (i) medical attendance; (ii) loss of earning of profit up to the date of trial; (iii) other material loss. So far non-pecuniary damages are concerned, they may include (i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in future;

(ii) damages to compensate for the loss of amenities of life which may include a variety of matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, i.e., on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life."

In this case, the Court awarded non-pecuniary special damages of Rs. 3, 00,000/- to the claimants.

23. In **Common Cause, A Registered Society v. Union of India (1999) 6 SCC 667 @ page 738**, it was observed: "128. The object of an award of damages is to give the plaintiff compensation for damage, loss or injury he has suffered. The elements of damage recognised by law are divisible into two main groups: pecuniary and non-pecuniary. While the pecuniary loss is capable of being arithmetically worked out, the non-pecuniary loss is not so calculable. Non-pecuniary loss is compensated in terms of money, not as a substitute or replacement for other money, but as a substitute, what McGregor says, is generally more important than money: it is the best that a court can do. In *Mediana*, Re87 Lord Halsbury, L.C. observed as under:

"How is anybody to measure pain and suffering in moneys counted? Nobody can suggest that you can by arithmetical calculation establish what is the exact sum of money which would represent such a thing as the pain and suffering which a person has undergone by reason of an

accident.... But nevertheless the law recognises that as a topic upon which damages may be given."

After considering the judgment in **Lata Wadwa v. State of Bihar** reported in **2001 ACJ 1735** and **M.S. Grewal and another v. Deep Chand Sood and others (2001) 8 SCC 151**, at Paragraph 31, the Apex Court in **R.K.Malik's** case (cited supra) held as follows:

"31. A forceful submission has been made by the learned counsels appearing for the claimants-appellants that both the Tribunal as well as the High Court failed to consider the claims of the appellants with regard to the future prospects of the children. It has been submitted that the evidence with regard to the same has been ignored by the Courts below. On perusal of the evidence on record, we find merit in such submission that the Courts below have overlooked that aspect of the matter while granting compensation. It is well settled legal principle that in addition to awarding compensation for pecuniary losses, compensation must also be granted with regard to the future prospects of the children. It is incumbent upon the Courts to consider the said aspect while awarding compensation. Reliance in this regard may be placed on the decisions rendered by this Court in **General Manager, Kerala S.R.T.C., v. Susamma Thomas, (1994) 2 SCC 176**; **Sarla Dixit v. Balwant Yadav, (1996) 3 SCC 179**; and **Lata Wadhwa case (supra).**"

Ultimately, the Supreme Court in **R.K.Malik's** case, awarded Rs.75,000/- towards future prospects, holding that the legal representatives of the deceased are entitled to be compensated, under the head, “future prospects”.

(iii) In **Reshma Kumar v. Madan Mohan** reported in **2009 (2) TNMAC 36 (SC) : 2009 (13) SCC 422, (Decided on 23.07.2009 by two Judges' Bench)**, the following questions have been referred to a Larger Bench viz., (1) Whether the multiplier specified in the Second Schedule appended to the Act should be scrupulously applied in all the cases? And (2) Whether for determination of the multiplicand, the Act provides for any criterion, particularly as regards determination of future prospects?.

(iv) The consideration in **Sarla Verma's** case, while adding a percentage to the income earned, at the time of death, was, whether, the deceased had a stable job, advancement in life and career. In **Sarla Verma's** case, the Hon'ble Supreme Court considered the case of salaried persons. In the case of non-salaried or self employed or on a fixed salary (without provision for annual increments etc.), or if he was employed in unorganized sector, though paid salary or earned wages, whether the same would be static forever, without any upward revision? In respect of

self-employed, what is the effect of rise in the cost price and the efforts of the self-employed to generate more income, the above aspects have been considered in **Santhosh Devi v. National Insurance Co. Ltd.**, reported in **2012 (6) SCC 421**.

(v) In **Santhosh Devi v. National Insurance Co. Ltd.**, reported in **2012 (6) SCC 421** (Decided on 23.04.2012 by two Judges Bench), the Hon'ble Supreme Court, held 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 naïve 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. 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 extra efforts to generate additional income necessary for sustaining their families. The salaries of those employed under the Central and 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 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 lac. 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 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 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. So will be the cases of ordinary skilled and unskilled labour, like, barber, blacksmith, cobbler, mason etc. 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 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."

(vi) In **Reshma Kumar v. Madan Mohan** reported in **2013 (9) SCC 65** (Decided on 02.04.2013 by three Judges' Bench), while considering the question, as to whether, for determination of the multiplicand, the Motor Vehicles Act provides for any criterion, as regards determination of income towards future prospects, the Hon'ble Supreme Court, held as follows:

**"36. The standardization of addition to income for future prospects shall help in achieving certainty in arriving at appropriate compensation. We approve the**

method that an addition of 50% of actual salary be made to the actual salary income of the deceased towards future prospects where the deceased had a permanent job and was below 40 years and the addition should be only 30% if the age of the deceased was 40 to 50 years and no addition should be made where the age of the deceased is more than 50 years. Where the annual income is in the taxable range, the actual salary shall mean actual salary less tax. In the cases where the deceased was self-employed or was on a fixed salary without provision for annual increments, the actual income at the time of death without any addition to income for future prospects will be appropriate. A departure from the above principle can only be justified in extraordinary circumstances and very exceptional cases.”

(vii) In *Rajesh v. Rajbir Singh* reported in 2013 (9) SCC 54, (Decided on 12.04.2013 by three Judges' Bench) the Hon'ble Supreme Court, held that in case of self-employed persons or persons with fixed wages, the actual income of the deceased must be enhanced for purpose of computation of compensation: (i) by 50% where his age was below 40 years, (ii) by 30% where he belonged to age group of 40 to 50 years, and (iii) by 15% where he was between age group of 50 to 60 years. However, it is observed that no such addition/enhancement permissible where

deceased exceeded the age of 60 years. Relevant paragraph in **Rajesh's** case (cited supra), is extracted hereunder:

“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.”

(viii) In **Syed Sadiq etc. Vs. Division Manager, United India Insurance Company Limited** reported in 2014(1) TNMAC 459 = 2014 (2) SCC 735 (Decided on 16.01.2014 by two Judges Bench), in the case of a vegetable vendor, aged 24 years, the Hon'ble Supreme Court, added 50% increment, under the head, future prospects. He was stated to have suffered 85% disablement, due to amputation.

(ix) In **Sanjay Verma v. Haryana Roadways** reported in **2014 (1) CTC 745** (Decided on 29.01.2014 by three Judges' Bench) the Supreme Court held as follows:

“Though in **Sarla Verma (Smt.) and Others vs. Delhi Transport Corporation and Another [(2009) 6 SCC 121]**, this Court had held that in case of a self employed person, unless there are special and exceptional circumstances, the annual income at the time of death is to be taken into account, a Coordinate Bench in **Santosh Devi vs. National Insurance Company Ltd. and Others [(2012) 6 SCC 421]** has taken a different view which is to the following effect:

“14. We find it extremely difficult to fathom any rationale for the observation made in para 24 of the judgment in **Sarla Verma** 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 naive 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.”

12. The view taken in **Santosh Devi (supra)** has been reiterated by a Bench of three Judges in **Rajesh and Others vs. Rajbir Singh and Others [(2013) 9 SCC 54]**, by holding

as follows:

“8. Since, the Court in Santosh Devi case actually intended to follow the principle in the case of salaried persons as laid down in Sarla Verma 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.

9. In Sarla Verma 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, 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.”

13. Certain parallel developments will now have to be taken note of. In **Reshma Kumari and Others vs. Madan Mohan and Another [(2009) 13 SCC 422]**, a two Judge Bench of this Court while considering the following questions

took the view that the issue(s) needed resolution by a larger Bench:

“(1) Whether the multiplier specified in the Second Schedule appended to the Act should be scrupulously applied in all the cases?

(2) Whether for determination of the multiplicand, the Act provides for any criterion, particularly as regards determination of future prospects?”

14. Answering the above reference a three Judge Bench of this Court in **Reshma Kumari and Ors. vs. Madan Mohan and Anr. [(2013) 9 SCC 65 (para 36)]** reiterated the view taken in *Sarla Verma (supra)* to the effect that in respect of a person who was on a fixed salary without provision for annual increments or who was self-employed the actual income at the time of death should be taken into account for determining the loss of income unless there are extraordinary and exceptional circumstances. Though the expression “exceptional and extraordinary circumstances” is not capable of any precise definition, in **Shakti Devi vs. New India Insurance Company Limited and Another [(2010) 14 SCC 575]** there is a practical application of the aforesaid principle. The near certainty of the regular employment of the deceased in a government department following the retirement of his father was held to be a valid ground to compute the loss of income by taking into account the possible future earnings. The said loss of income, accordingly, was quantified at double the amount that the

deceased was earning at the time of his death.

15. Undoubtedly, the same principle will apply for determination of loss of income on account of an accident resulting in the total disability of the victim as in the present case. Therefore, taking into account the age of the claimant (25 years) and the fact that he had a steady income, as evidenced by the income-tax returns, we are of the view that an addition of 50% to the income that the claimant was earning at the time of the accident would be justified.”

(x) In **V.Mekala v. V.Malathi** reported in **2014 ACJ 1441 (SC)**, (Decided on 25.04.2014 by two Judges Bench), the injured was a student studying in 11th Standard. While determining the monthly income of the injured as Rs.10,000/-, the Hon'ble Supreme Court added 50% of the income, under the head, future prospects.

(xi) The Hon'ble Supreme Court in **Shashikala v. Gangalakshamma** reported in **2015 (3) MLJ 373 (SC)** [Decided on 13.03.2015], the Hon'ble Mrs. Justice R.Banumathi, has considered the decision in In **National Insurance Co. Ltd., v. Pushpa** [SLP(C)No.8058 of 2014, dated 31.10.2013] and at Paragraphs 7 to 16, held as follows:

“7. Learned counsel for the respondent-insurance company submitted that in **Reshma Kumari & Ors., v. Madan**

**Mohan & Anr., [2013 (9) SCC 65]**, this Court has held that where the deceased was self-employed, it would be appropriate not to make any addition to income for future prospects and the High Court rightly declined to make addition towards future prospects. It was submitted that the deceased was engaged in the business and was not earning fixed income and has filed returns for different years showing different income viz., gross income of Rs.1,08,713/- for the assessment year 2005-06 and Rs.2,02,911/- for the assessment year 2006-07 which only indicates the disparity in income of the deceased. To strike a balance, High Court has rightly taken the average and rightly deducted 10% towards income tax and other deductions. It was submitted that the compensation awarded by the High Court is just and reasonable and no grounds have been made out by the claimants for enhancement of the compensation whatsoever.

8. I have carefully considered the rival contentions and perused the impugned judgment as also the award and the materials on record.

9. The deceased was doing transport business of supplying newspapers from the Head Office to the other destinations as per the agreement entered into between the group of newspapers and himself. It is also not in dispute that the deceased was an income tax assessee and he has filed income tax returns for the assessment years 2005-06 and 2006-07. The claimants had filed income tax returns of the deceased for the assessment years 2005-06 and 2006-07



with gross total income of Rs.1,08,713/- and Rs.2,02,911/- respectively including the income from the house property. Total income of both the years comes to Rs.3,11,624/- and the High Court has taken the average of it which comes to Rs.1,55,812/-. High Court deducted 10% of the said amount towards income-tax and taken the balance amount to Rs.1,40,231/-. The High Court had further deducted Rs.2,400/- towards professional tax and income from the house property shown as Rs.20,000/- and the net income was calculated at Rs.1,17,831/-. Since the claimants are six in numbers as per the decision in **Sarla Verma & Ors., v. Delhi Transport Corporation & Anr. [2009 (6) SCC 121]**, one-fourth(1/4th ) deduction was made towards personal expenses. The loss of dependency was thus calculated at Rs.88,373/-. Taking the age of deceased at 45 years, the High Court adopted multiplier 14 and calculated the total loss of dependency at Rs.12,37,222/-.

10. The deceased was aged 45 years and was doing transport business. Though the claimants have filed income tax returns for two assessment years 2005-06 and 2006-07, as per the income tax returns for the year 2006-07, the income of the assessee was Rs.2,02,911/-. Tribunal did not take the income of the deceased for the assessment year 2006-07 on the ground that only xerox copy was filed and the claimants have failed to examine income-tax authorities to prove the same. Instead of taking the income of the deceased as per the assessment year 2006-07, the High Court has chosen to

calculate the average of the income for two assessment years 2005-06 and 2006-07. Considering the age of the deceased and the nature of business he was doing, in my considered view, the High Court was not justified in so taking the average of income of the two assessment years. The deceased was aged 45 years and doing business. Admittedly, he was also owning agricultural lands. Even though agricultural income was not shown in the income tax return, it emerges from the evidence that the deceased was also doing agricultural work.

11. On behalf of the claimants, reliance was placed upon **Rajesh's** case (supra) to contend that even in the case of self-employed persons or persons with fixed wages, there must be an addition to the income of the deceased towards future prospects. In **Sarla Verma's** case (supra), this Court held that in case of salaried persons additions have to be made depending upon the age of the deceased to the actual income of the deceased while computing future prospects. In **Santosh Devi v. National Insurance Company Ltd., & Ors., [2012 (6) SCC 421]**. Sarla Verma was explained and it was held that the benefit of making addition to total income of persons who are self- employed or getting fixed wages was permissible.

12. The principles laid down in **Santosh Devi's** case (supra) were reiterated in **Rajesh and Ors., v. Rajbit Singh & Ors., [2012 (6) SCC 421]**, wherein this Court held that the case of self-employed persons or persons with fixed wages,

the actual income of the deceased must be enhanced for purpose of computation viz.(i) by 50% where his age was below 40 years; (ii) by 30% where he belonged to age group of 40 to 50 years, and (iii) by 15% where he was between age group of 50 to 60 years. However, it was observed that no such addition/enhancement was permissible where deceased exceeded the age of 60 years. Further, in *Rajesh (supra)*, this Court while reiterating the meaning of "just compensation" with reference to settled principles observed that, at the time of fixing such compensation, the court should not succumb to the niceties or technicalities to grant just compensation in favour of the claimant. It is the duty of the court to equate, as far as possible, the misery on account of the accident with the compensation so that the injured or the dependants should not face the vagaries of life on account of discontinuance of the income earned by the victim, and the court's duty is to award just, equitable, fair and reasonable compensation, irrespective of claim made.

13. Considering the question of making addition to the income of the deceased towards the future prospects in cases of salaried persons vis--vis in cases where the deceased was self-employed or on a fixed wage/salary in **Reshma Kumari & Ors., v. Madan Mohan & Anr., [2013 (9) SCC 65]**, this Court held as under :-

"39. The standardization of addition to income for future prospects shall help in achieving certainty in arriving at appropriate compensation. We approve the method that

an addition of 50% of actual salary be made to the actual salary income of the deceased towards future prospects where the deceased had a permanent job and was below 40 years and the addition should be only 30% if the age of the deceased was 40 to 50 years and no addition should be made where the age of the deceased is more than 50 years. Where the annual income is in the taxable range, the actual salary shall mean actual salary less tax. In the cases where the deceased was self-employed or was on a fixed salary without provision for annual increments, the actual income at the time of death without any addition to income for future prospects will be appropriate. A departure from the above principle can only be justified in extraordinary circumstances and very exceptional cases."

14. The decision in **Reshma Kumari's** case was rendered at earlier point of time (2.04.2013) and **Rajesh's** case was pronounced subsequently (12.04.2013). Pointing out the divergent opinion expressed in the above cases and expressing the view that regarding the manner of addition of income for future prospects in case of self-employed or on fixed wages there should be an authoritative pronouncement, in **National Insurance Co. Ltd., v. Pushpa [SLP(C)No.16735 of 2014]**, the matter has been referred to a larger Bench by the order dated 2.07.2014, in which one of us (Hon'ble Mr. Justice V. Gopala Gowda) was a member, which is pending consideration.

15. Section 168 of the Motor Vehicles Act enjoins the

courts/tribunals to make award determining the amount of compensation which appears to be just and reasonable. The wide amplitude of such power does not empower the tribunal to determine the compensation arbitrarily, although the Act is a beneficial legislation, it can neither be allowed as a source of profit nor as a windfall to the persons affected. Determination of compensation has to be fair and reasonable and acceptable by the legal standards. In **Nagappa v. Gurudayal Singh & Ors.**, [2003 (6) SCC 274], this Court held as under:-

"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, the only requirement for determining the compensation is that it must be "just". There is no other limitation or restriction on its power for awarding just compensation".

The same principle was reiterated in the decisions of **Oriental Insurance Company Ltd., v. Mohd. Nasir** [2009 (6) SCC 280] and **Ningamma and Anr., v. United India Insurance Company Ltd.**, [2009 (13) SCC 710].

16. Without adverting to the issue whether additions are to be made towards future prospects or not, as it is obligatory on the part of the Court to award just compensation, considering the age of the deceased and the nature of business he was doing, in my view, the income of the deceased as stated in the income tax return for the year 2006-07 i.e. Rs. 2,02,911/- may be taken as the income of

the deceased. Ten per cent of the said amount i.e. Rs.20,290/- is to be deducted towards income tax and the remaining comes to Rs.1,82,620/-. The amount to be deducted for professional tax is Rs.2,400/- and after deducting the same, the balance comes out to Rs.1,80,220/-. The income from the house property for the year 2006-07 is shown to be Rs.20,000/- and after deducting the same, the net amount comes to Rs.1,60,220/-. Deducting 1/4th (one/fourth) towards personal expenses which comes out to Rs.40,055/-, the loss of dependency/loss of contribution is arrived at Rs.1,20,165/- per annum.

(xii) In the above reported decision, one of the Hon'ble Judges of the Apex Court, by following the decision in **Reshma Kumari's** case, has disallowed the claim of addition of a percentage of income, under the head, "future prospect". The other Hon'ble Judge (Hon'ble Mr. Justice Gopala Gowda) in the said decision, has ordered as follows:

"I have perused the judgment written by my learned Sister Mrs. Justice R. Banumathi in the above-mentioned matter. I am in respectful agreement with all the points which are answered in favour of the appellants-claimants, except for the non-consideration on the question of making addition to the income of the deceased towards the future prospects in the case of salaried persons vis-à-vis where the deceased was self employed or on fixed wages after adverting to the judgments of this Court in

**Reshma Kumari & Ors. v. Madan Mohan & Anr.** (2013) 9 SCC 65), **Rajesh & Ors. v. Rajbir Singh & Ors.** ((2013) 9 SCC 54), the relevant paragraphs of which are extracted hereinafter.

2. After considering the legal principles laid down by this Court in the case of (1) **General Manager, Kerala State Road Transport Corporation, Trivandrum & Ors. v. Susamma Thomas & Ors.** ((1994) 2 SCC 176); (2) **Sarla Dixit & Anr. v. Balwant Yadav & Ors.** ((1996) 3 SCC 179) and (3) **Abati Bezbaruah v. Dy. Director General, Geological Survey of India & Anr.** (2003) 3SCC 148), this Court, on the question of future prospects in the case of **Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.** ((2009) 6 SCC 121) has held as follows:-

“24. In **Susamma Thomas**, this Court increased the income by nearly 100%, in **Sarla Dixit** the income was increased only by 50% and in **Abati Bezbaruah** the income was increased by a mere 7%. In view of the 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, 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 be no addition, where the age of the deceased is more than 50 years. Though the evidence may indicate a different percentage of

increase, it is necessary to standardise the addition to avoid different yardsticks being applied or different methods of calculation being adopted. 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.”

3. Interestingly, in **Reshma Kumari & Ors.** (supra), which was ultimately decided in 2.4.2013 by a three judge Bench, which arose out of the matter referred by the order of two judge Bench dated 23.7.2009. That order had referred two questions:-

“(1) Whether multiplier specified in the Second Schedule appended to the Motor Vehicles Act, 1988 (for short “the 1988 Act”) should be scrupulously applied in all cases? And

(2) Whether for determination of the multiplicand, the 1988 Act provides for any criterion, particularly as regards determination of future prospect.”

4. The referring Bench (in **Reshma Kumari & Ors.**-supra) had in fact, envisioned a situation where future prospects in private employment too, were to be taken into consideration (although in a slightly different context).

The relevant paragraph of the referring Bench of this Court in the case of **Reshma Kumari & Ors.** is extracted hereunder:-

“46. In the Indian context several other factors should



be taken into consideration including education of the dependants and the nature of job. In the wake of changed societal conditions and global scenario, future prospects may have to be taken into consideration not only having regard to the status of the employee, his educational qualification; his past performance but also other relevant factors, namely, the higher salaries and perks which are being offered by the private companies these days...”

Ultimately, the question of future prospects was decided in the Larger Bench judgment of this Court in **Reshma Kumari’s** case. The relevant paragraph is extracted hereunder:

“39. The standardisation of addition to income for future prospects shall help in achieving certainty in arriving at appropriate compensation. We approve the method that an addition of 50% of actual salary be made to the actual salary income of the deceased towards future prospects where the deceased had a permanent job and was below 40 years and the addition should be only 30% if the age of the deceased was 40 to 50 years and no addition should be made where the age of the deceased is more than 50 years. Where the annual income is in the taxable range, the actual salary shall mean actual salary less tax. In the cases where the deceased was self-employed or was on a fixed salary without provision for annual increments, the actual income at the time of death without any addition to income for future prospects will be appropriate. A departure from the above principle can only be justified in extraordinary circumstances

and very exceptional cases.”

5. In **Santosh Devi v. National Insurance Co. Ltd. & Ors.** ((2012) 6 SCC 421), a two judge Bench of this Court had earlier doubted the decision with respect to future prospects in **Sarla Verma** (supra) and interpreted the limiting of grant of compensation amount to a person who is self-employed, privately employed or is engaged on fixed wages if he /she becomes victim of an accident. The relevant paragraphs as discussed by this Court in **Santosh Devi’s** case is extracted hereunder:-

“14. We find it extremely difficult to fathom any rationale for the observation made in para 24 of the judgment in **Sarla Verma** 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 naïve 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 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 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.

17. Although the wages/income of those employed in unorganised 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 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 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 clothes. 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. 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 para 24 of Sarla Verma 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% increase in his total income over a period of time and if he/she becomes the victim of an accident then the same formula deserves to be applied for calculating the amount of compensation.”

6. In **Rajesh & Ors.** (supra), a three judge Bench decision of this Court, which took into consideration the decisions of this Court in the case of **Sarla Verma & Ors.** and **Santosh Devi** (supra) held thus:

“8. Since, the Court in **Santosh Devi** case actually intended to follow the principle in the case of salaried persons as laid down in **Sarla Verma** 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.”

7. Further, in **National Insurance Company Ltd. v. Pushpa**, this Court in SLP No. 16735 of 2014 (arising out of CC No. 8058 of 2014) vide order dated 2.7.2014 made a reference to a larger Bench in view of the seeming conflict between the legal principles with respect to future prospects laid down by this Court in the cases of **Reshma Kumari & Ors.** and **Rajesh & Ors.** (supra). The relevant para from the **National Insurance Company** case (supra) is extracted hereunder:-

“Be it noted, though the decision in **Reshma** (supra) was rendered at earlier of time, as is clear, the same has not been noticed in **Rajesh** (supra) and that is why divergent opinions have been expressed. We are of the considered opinion that as regards the manner of addition of income of future prospects there should be an authoritative pronouncement. Therefore, we think it appropriate to refer the matter to a larger Bench.”

Though, I am a party to the above reference, at the same time, it is worth mentioning that the reference even in the case of a perceived conflict or disagreement with the

views of a two judge (or even a three judge) Bench does not permit a lower Bench formation to refer the matter straightway to a five Judge Bench. This principle was stated in **Bharat Petroleum Corporation Ltd. v. Mumbai Shramik Sangha & Ors.** ((2001) 4 SCC 448). In that judgment, the Constitution Bench held that a decision of a Constitution Bench binds Benches of two and three learned Judges of this Court and that judicial discipline obliges them to follow it, regardless of their doubts about its correctness. At the most, they can direct that the matter to be heard by a Bench of three learned Judges. In **Pradip Chandra Parija & Ors. v. Pramod Chandra Patnaik & Ors.** ((2002) 1 SCC 1), a Bench of two learned judges expressed reservations with the judgment of a three judge Bench and directed the matter to be placed before a larger Bench of five judges. The Constitution Bench held that the rule of 'judicial discipline and propriety' as well as the theory of precedents permitted only a Bench of the same quorum to question the correctness of the decision by another Bench of co-ordinate strength upon which the matter can be placed for consideration by a Bench of larger quorum. A Bench of lesser quorum cannot thus, express disagreement with, or question the correctness of, the view of a Bench of a larger quorum. **Central Board of Dawoodi Bohra Community & Anr. v. State of Maharashtra & Anr.** ((2005) 2 SCC 673) summarized, for future guidance, the correct approach in such matters. The relevant para of the said case is extracted hereunder:-

“12. Having carefully considered the submissions made by the learned Senior Counsel for the parties and having examined the law laid down by the Constitution Benches in the abovesaid decisions, we would like to sum up the legal position in the following terms:

(1) The law laid down by this Court in a decision delivered by a Bench of larger strength is binding on any subsequent Bench of lesser or coequal strength.

(2) A Bench of lesser quorum cannot disagree or dissent from the view of the law taken by a Bench of larger quorum.

In case of doubt all that the Bench of lesser quorum can do is to invite the attention of the Chief Justice and request for the matter being placed for hearing before a Bench of larger quorum than the Bench whose decision has come up for consideration. It will be open only for a Bench of coequal strength to express an opinion doubting the correctness of the view taken by the earlier Bench of coequal strength, whereupon the matter may be placed for hearing before a Bench consisting of a quorum larger than the one which pronounced the decision laying down the law the correctness of which is doubted.

(3) The above rules are subject to two exceptions:

(i) the abovesaid rules do not bind the discretion of the Chief Justice in whom vests the power of framing the roster and who can direct any particular matter to be placed for hearing before any particular Bench of any strength; and

(ii) in spite of the rules laid down hereinabove, if the matter has already come up for hearing before a Bench of larger quorum and that Bench itself feels that the view of the law taken by a Bench of lesser quorum, which view is in doubt, needs correction or reconsideration then by way of exception (and not as a rule) and for reasons given by it, it may proceed to hear the case and examine the correctness of the previous decision in question dispensing with the need of a specific reference or the order of the Chief Justice constituting the Bench and such listing. Such was the situation in **Raghubir Singh and Hansoli Devi.**”

8. Hence, I am of the opinion that the Rajesh & Ors. (supra) itself applied the Santosh Devi (supra) case, even while clarifying that for self employed individuals, age is also a determining factor, as is seen in the observation in the case of Rajesh & Ors. (supra) that 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. In fact, this gives shape to the view that future prospects are to be taken into account even in case of self employment and also that there cannot be a set formula for determining such compensation. The best application of this view may be seen in Sanjay Verma v. Haryana Roadways (((2014) 3 SCC 210)where the facts were noticed as follows :

“12. The appellant was a self-employed person.



Though he had claimed a monthly income of Rs.5000/-, the income tax returns filed by him demonstrate that he had paid income tax on an annual income of Rs.41,300/-. No fault, therefore, can be found in the order of the High Court which proceeds on the basis that the annual income of the claimant at the time of the accident was Rs.41,300/-...

Then, this Court after noticing the decisions of this Court in the cases of **Sarla Verma & Ors.**, **Santosh Devi**, and the three Judge Bench of this Court in **Reshma Kumari & Ors.** And **Rajesh & Ors.** (supra) applied the law in the following manner in **Sanjay Verma's** case (supra):-

“16. Undoubtedly, the same principle will apply for determination of loss of income on account of an accident resulting in the total disability of the victim as in the present case. Therefore, taking into account the age of the claimant (25 years) and the fact that he had a steady income, as evidenced by the income tax returns, we are of the view that an addition of 50% to the income that the claimant was earning at the time of the accident would be justified.

17. Insofar as the multiplier is concerned, as held in **Sarla Verma** or as prescribed under the Second Schedule to the Act, the correct multiplier in the present case cannot be 15 as held by the High Court. We are of the view that the adoption of the multiplier of 17 would be appropriate. Accordingly, taking into account the addition to the income and the higher multiplier the total amount of compensation

payable to the claimant under the head “loss of income” is Rs.10,53,150/- (Rs.41,300/- + Rs.20,650/- = Rs.61,950/- × 17).”

The clarification of the position, by a three judge Bench, in **Rajesh & Ors.**, ipso facto could not have led to the conclusion that there was a conflict between the views of various Benches, since **Santosh Devi** itself had noticed **Sarla Verma**, the logic of which in respect of limiting compensation for non-permanent employment was clarified.

9. The above facts recount the position as emerging from a combined reading of various orders and judgments. What is clear is that a two judge Bench as was the formation in the case of **National Insurance Company Ltd. v. Pushpa** (supra) could not, having regard to the settled legal principle outlined in the decision of this Court in **Central Board of Dawoodi Bohar Community** (supra) have referred the matter to a larger Bench. The correct view would have been to place the matter before a Bench of co-ordinate strength which decided **Reshma Kumari & Ors.** and **Rajesh & Ors.** (supra), i.e. three judges.

10. However, I agree that the matter in relation to future prospects to be added to the annual income to determine the compensation towards loss of dependency cannot be finally decided by us and has to be ultimately referred to a larger Bench - because I was a party to the reference in **National Insurance Co. Ltd. v. Pushpa** (supra) and more importantly, cannot in propriety recall that

reference while I am part of another Bench presently. In view of the observations, the matter has to be placed before the Hon'ble Chief Justice of India for appropriate orders towards the constitution of a suitable larger Bench in accordance with law.

ORDER:

Since we have disagreed only insofar as the addition towards the future prospects in case of self-employed or fixed wages to be added to the compensation towards the dependency, the matter may be placed before the Hon'ble the Chief Justice of India for appropriate orders towards the constitution of a suitable larger Bench to decide the said issue.”

(xiii) In **Munna Lal Jain v. Vipin Kumar Sharma** reported in **2015 (6) SCC 347 (Decided on 15.05.2015 by three Judges Bench)**, the deceased was a pandit and bachelor. He was aged 30 years. The accident occurred on 12.07.2008. Income at Rs.12,000/- per month, was determined by the High Court. Addition of 50% was made and thereafter, compensation was quantified. Thus, in the recent judgment, a three Judges Bench of the Hon'ble Apex Court, has allowed addition of 50% under the head future prospects.

(xiv) **Shashikala's** case has been decided on 13.03.2015 by two

Judges' Bench of the Apex Court, out of which, one of the learned Judges has expressed divergent views. In **National Insurance Co. Ltd., v. Pushpa [SLP(C)No.8058 of 2014, dated 31.10.2013] [Decided by two Judges' Bench]**, there is a reference to a larger Bench. Thus, the last of the judgments decided by the Hon'ble Apex Court in **Munna Lal Jain's** case (cited supra), dated 15.05.2015, 50% of the income has been taken into consideration under the head, future prospects.

(xv) In **Sarla Verma's** case (cited supra) (Decided by two Judges Bench) and **Reshma Kumari's** case (cited supra) (Decided by three Judges Bench), the Hon'ble Apex Court held that in respect of salaried persons in unorganised sector or self-employed, there should not be any addition towards future prospects, whereas, in **Santhosh Devi's** case (cited supra) (Decided by two Judges Bench) and **Rajesh's** case (cited supra) (Decided by three Judges Bench), the Hon'ble Apex Court held addition can be made towards future prospects, in respect of the above class also. We are conscious of the fact that a reference has been made on the above subject. At the same time, we deem it fit to consider the decision of the Hon'ble Apex Court, as to how, the Courts should proceed till a reference is answered.

(a) In **State of Orissa v. Dandasi Sahu** reported in **1988 (4) SCC 12**,

the Supreme Court held as follows:

“Arbitration is resorted to as a speedy method of adjudication of disputes. Stale and old adjudication should not be set at naught or examination of that question kept at bay on the plea that the point is pending determination by a larger Bench of this Court. Even if it is held ultimately that the unreasoned award per se is bad, it is not sure whether such a decision would upset all the awards in this country which have not been challenged so far.”

(b) In **Uma Shankar Singh v. State of Bihar** reported in **2010 (9) SCC 479**, the Hon'ble Supreme Court observed as follows:

“.....for a decision in the facts of the case, it is not necessary to wait for the outcome of the result of the reference made to a larger Bench in *Dharam Pal case*.”

(c) In **Ashok Sadarangani v. Union of India** reported in **(2012) 11 SCC 321**, the Hon'ble Supreme Court held as follows:

“29. As was indicated in *Harbhajan Singh case*, the pendency of a reference to a larger Bench, does not mean that all other proceedings involving the same issue would remain stayed till a decision was rendered in the reference. The reference made in *Gian Singh case* need not, therefore, detain us. Till such time as the decisions cited at the Bar are not modified or altered in any way,

they continue to hold the field.”

(d) In *National Insurance Co. Ltd., v. Saju P. Paul* reported in 2013

(2) SCC 41, the Hon'ble Supreme Court, held as follows:

“The pendency of consideration of the above questions by a larger Bench does not mean that the course that was followed in *Baljit Kaur's* case and *Challa Bharathamma's* case should not be followed, more so in a peculiar fact situation of this case.”

(e) In *State of Maharashtra v. Sarva Shramik Sangh* reported in

(2013) 16 SCC 16, the Hon'ble Supreme Court held as follows:

“27. It is, however, contended on behalf of the appellant that the said undertaking was being run by the Irrigation Department of the first appellant, and the activities of the Irrigation Department could not be considered to be an “industry” within the definition of the concept under Section 2(j) of the ID Act. As noted earlier, the reconsideration of the wide interpretation of the concept of “industry” in *Bangalore Water Supply and Sewerage Board* is pending before a larger Bench of this Court. However, as of now we will have to follow the interpretation of law presently holding the field as per the approach taken by this Court in *State of Orissa v. Dandasi Sahu*, referred to above. The determination of the present

**pending industrial dispute cannot be kept undecided until the judgment of the larger Bench is received.”**

34. In the light of the above decisions, we deem it fit to consider, as to how, the monthly income of a victim has to be determined, while computing the loss of contribution to the family of the deceased or in the case of an injured, if there is a loss of earning capacity on account of disability suffered.

35. Future prospects, depends upon education, skill and experience gained in the skilled jobs, managerial, supervisory or administrative positions in organised or unorganised sectors, or self-employed. Prospects can be, with reference to employment, co-relating to income. The word, “future” needs, no explanation.

36. As per R.Ramanatha Iyer's Concise Law Dictionary, prospects, means “expectation for something to come”.

37. As per Longman Dictionary of Contemporary English, “prospect” means, “possibility that something will happen; a particular event, which will probably or definitely happen in the future.

“Prospects” means, “chances of future success”.

38. “Prospect”, as per Chambers Dictionary, inter alia, means, “an outlook on the probable future; an expectation; a chance of success or advancement.”

39. “Prospect” as per Encarta World English Dictionary, means “possibility of happening soon; a chance or likelihood that will happen in future, (esp.) desirable; vision of future that is expected or certain to happen in future. “Prospects” means, “expectation of success; likelihood of successful or prosperous in future, especially in job or career.

40. As per Oxford Dictionary and Thesaurus, “Prospect” (noun), means, “(1) There is a little prospect of success, likelihood, hope, expectation, anticipation (good/poor), chance, odds, probability, possibility, promise, lookout, fear and danger.” (2) “Potential, expectations, outlook”. “Prospect”(Noun), means, possibility or likelihood of some future event occurring. “Prospects” means, “Chances or promise or opportunity for success.”

41. In American Heritage Dictionary, “Prospect”, means,



“something expected, possibility”.

42. As per Webster's Encyclopedic Unabridged Dictionary of the English Language (Deluxe Edition), “Prospect” means, (1) Usually, “prospects”. (a) an apparent probability of advancement, success, profit, etc., (b) good business prospects. (2) anticipation; expectation; a looking forward.

43. Extract of the dictionary meaning of the words “Prospect” or “Prospects”, would indicate that it is closely related to the probability or possibility of an event, expected in future. Thus, in the matter of awarding compensation to the accident victims, the expression, “future prospects” is more or less used and meant, with reference to the plurality of the word “prospect”, in relation to employment or career prospects and consequently, the expected increase in income, after a passage of time. At this juncture, it should be noticed that the Hon'ble Apex Court in **Sarla Verma's** case (cited supra), has used the expression, advancement in life and career, but with reference to a stable job. In the said case, the Apex Court held that no amount need be added under the head, future prospects to others.

44. In **Sarla Verma's** case (cited supra), the case of persons,

employed in a permanent job, in salaried structure and while considering the prospects of earning more income, consequent to periodical revision of salary of those employed in organised sectors. Subsequently in **Santhosh Devi's** case, the Hon'ble Supreme Court, has extended addition of certain percentage to the income drawn by the victim, at the time of accident, towards future prospects and in **Rajesh's** case (cited supra), it has been clarified. But in **Reshma Kumari's** case (cited supra), it is held otherwise.

45. At this juncture, we wish to consider the difference between organised and unorganised sector. What is meant by “organised sector”? In common parlance, it would be service in Government, Government Undertaking, Companies owned and controlled by the Government, Corporation or Boards. The unorganized sector consists of all individuals or households engaged in production or sale of goods and services, operated as a proprietor or on partnership or self employed. They can be said to be unorganised sectors.

46. Who is there in the unorganised sector? Right from a roadside tea shop owner or tiffin vendor or a pushcart vendor, a vegetable vendor on road or in a market and many more home based self employment.

Wages or earning of self-employed correlates the subsistence level to meet out the basic needs of living standards. At home or outside, there are thousands and thousands of self-employed persons, who do not have adequate employment opportunities in the organised sector.

47. Those engaged in unorganised sectors are self-employed or unregistered, carry on their avocations or activities, say for instance, a roadside tea stall vendor, a vegetable vendor or engaged in skilled, like a fitter, carpenter, plumber, etc., or unskilled work, either employed or on his own. This type of classification as unorganised sector, may be broadly classified on occupations, including skilled or semi-skilled, landless labourers, either in the field of agriculture or industry or small traders or self-employed, construction workers, weavers, artisans, those engaged in stone quarries, migrant workers, labourers engaged by private contractors, drivers, domestic workers and many more. They are in rural, urban and metropolitan cities. They are engaged in unorganised sectors, in manufacturing, trading and services oriented.

48. Before adverting to the issue, taken up for consideration, let us have a cursory look at some of the factors, which decide the economy of any Country. General meaning of the words, “Gross Domestic Product”,

“Per Capita Income” and “Consumer Price Index” are as follows:

**Gross domestic product (GDP)** is the monetary value of all the finished goods and services produced within a country's borders in a specific time period. Though GDP is usually calculated on an annual basis, it can be calculated on a quarterly basis as well. GDP includes all private and public consumption, government outlays, investments and exports minus imports that occur within a defined territory. Put simply, GDP is a broad measurement of a nation's overall economic activity. Gross domestic product can be calculated using the following formula:

**GDP = C + G + I + NX** (where 'C' is equal to all private consumption, or consumer spending, in a nation's economy, G is the sum of government spending, 'I' is the sum of all the country's investment, including businesses capital expenditures and NX is the nation's total net exports, calculated as total exports minus total imports (NX = Exports - Imports)).

**Per Capita Income (PCI)** is a measure of the amount of money that is being earned per person in a certain area. Income per capita can apply to the average per-person income for a city, region or country and is used as a means of evaluating the living conditions and quality of life in different areas. It can be calculated for a country by dividing the country's national income by its population.

Consumer Price Index (CPI) is a measure that examines the weighted average of prices of a basket of consumer goods and services, such as transportation, food and medical care. The CPI is calculated by taking price changes for each item in the predetermined basket of goods and averaging them; the goods are weighted according to their importance. Changes in CPI are used to assess price changes associated with the cost of living.

49. Consumer Price Index is a measure of changes in the purchasing-power of currency and the rate of inflation. The consumer price index expresses the current prices of a basket of goods and services in terms of the prices during the same period in a previous year and indicate the effect of inflation on the purchasing power. It is determined on the expenditures of all the residents in urban or metropolitan areas, including the professionals, self-employed, poor, unemployed and retired persons, as well as urban wage earners and clerical workers. Consumer Price Index in common parlance is also called as cost-of-living index. A cost-of-living index would measure changes over a time, in the amount that consumers need to spend to reach a certain utility level or standard of living.

50. Consumer Price Index represents all the goods and services,

purchased and consumed by the reference population in relation to food and beverages (milk, coffee and all the essential food items), housing (rent, furniture, etc.), clothing, transportation (vehicles, bus, train and other modes of transport fares), medical care (drugs and medicines, doctor services and hospital services), recreation, education and communication (school or college fee, telephone services, computer software) etc., beside there are other goods and services (personal services). Consumer Price Index also includes government-charged fees, such as, electricity, water and sewerage charges, etc. In addition, Consumer Price Index also includes taxes (such as sales tax and excise duty) that are directly associated with the prices of specific goods and services.

51. Inflation has been defined as a process of continuously rising prices or equivalently, of a continuously falling value of money. Various indexes have been devised to measure the different aspects of inflation. The Consumer Price Index measures the inflation as experienced by the consumers in their day-to-day living expenses; the Producer Price Index (PPI) measures inflation in the stages of production process; the Employment Cost Index (ECI) measures the labor market; and the Gross Domestic Product measures the inflation experienced by both consumers

themselves as well as the governments and other institutions providing goods and services to the consumers. It is well known that Consumer Price Index is the best factor, to understand and estimate, as to how much, one could purchase, with a fixed sum. Inflation is the rate at which the general level of prices for goods and services is rising and, consequently, the purchasing power of the consumers would be diminishing. Can anybody in this Country, claim that the cost of fuel, electricity, essential commodities, tax or fee, collected by Government or local bodies, as the case may, remain the same? The effects of inflation are the same for everyone, rich or raff, but the changes in the cost of living may vary from place to place and from person to person, depending upon the Consumption pattern of the goods or services, as the case may be. Needless to state that Consumer Price Index is primarily a measure of the cost of living. From the Government of India's Economic Survey 2014-15, this Court is inclined to extract the Gross National Income (Gross Domestic Product), Net National Income (Per Capita Income), Consumer Price Index and Inflation, for the period 2011-12 to 2014-15, as under:

#### **Gross National Income and Net National Income**

Year	Net National Income at Market Prices Constant Prices (Rupees Crore)	Per Capita Net National Income at Market Prices Constant Prices (Rupees Crore)
2011-12	7846531	64316
2012-13	8193427	66344
2013-14	8751834	69959
2014-15	9400266	74193

### Consumer Price Index and Inflation

<u>Year &amp; Month</u>	Base Year	Consumer Price Index (General-All Commodities)	Inflation (%)
2011 April	2010	-	106.2
2012 April	2010	117.1	10.2
2013 April	2010	128.1	9.4
2014 April	2012	117.6	9.2
2015 April	2012	124.0	6.5

Inflation is calculated as  $\{(\text{index of current year minus index of the previous year}) / \text{current year index}\} \times 100$ . For 2014 and 2015, we have chosen the base year as 2012. So the index for 2013, April with base year 2012 was 107.7. Consequently the inflation for 2014, April was  $\{9.9 / 107.7\} \times 100 = 9.2$ . Similarly for 2015 April. We have taken the beginning of financial year for this calculation.

52. Let us now consider, as to how, the wages are revised



periodically by the Central Government and State Government, in respect of certain employees. For every half-yearly, on the basis of average Consumer Price Index, the Chief Labour Commissioner, Ministry of Labour and Employment, Government of India, would revise the rates of Variable Dearness Allowance (VDA), for Agricultural Labourers, Industrial Workers, Workers engaged in Stone Mines for stone breaking & stone crushing and employees engaged in “Employment of Sweeping and Cleaning” and “Employment of Watch and Ward”. To compare the Cost Price Index, this Court deems it fit to consider the proceedings of the Chief Labour Commissioner, Ministry of Labour and Employment, Government of India, issued periodically, as follows:

**AGRICULTURAL LABOURERS:**

“In exercise of the powers conferred by Central Government vide Notification No.1520(E) dated 20<sup>th</sup> October, 2005 of the Ministry of Labour and Employment, the Chief Labour Commissioner, Ministry of Labour and Employment, Government of India, New Delhi, has revised the rates of Variable Dearness Allowance for the workers employed in Agriculture, vide, proceedings No.1/11(1)/2013-LS-II, dated 19.09.2013, [w.e.f. 01.10.2013 on the basis of the average Consumer Price Index for Agricultural Labourers reaching 709.05 from 674.66 as on 30-06-2013 (Base 1982=100) and thereby resulting in an increase of 34.39 points]; Proceedings No.1/2(1)/2014-LS-II, dated 04.03.2014 [w.e.f. 01.10.2014 on

the basis of the average Consumer Price Index for agricultural labourers reaching 760.16 from 709.05 as on 30-12-2013 (Base 1982=100) and thereby resulting in an increase of 51.11 points]; Proceedings No.1/17(1)/2014-LS-II, dated 29.09.2014 [w.e.f. 01.10.2014 on the basis of the average Consumer Price Index for agricultural labourers reaching 768.33 from 760.16 as on 30-06-2014 (Base 1982=100) and thereby resulting in an increase of 8.17 points]; Proceedings No.1/3(1)/2015-LS-II, dated 30.03.2015 [w.e.f. 01.04.2015 on the basis of the average Consumer Price Index for agricultural labourers reaching 768.33 as on 31.12.2014 (Base 1982=100) and thereby resulting in an increase of 40.17 points]; and Proceedings No.1/15(1)/2015-LS-II, dated 30.09.2015 [w.e.f. 01.10.2015 on the basis of the average Consumer Price Index for agricultural labourers reaching 807.66 from 808.5 as on 30-06-2015 (Base 1982=100) and thereby resulting in a decrease of -0.84 points]. The revised Variable Dearness Allowance as under, would be payable, from the aforesaid respective dates:-

**Proceedings No.1/11(1)/2013-LS-II, dated 19.09.2013:-**

Category of Workers	Rates of V.D.A. area wise (In Rupees)		
	(A)	(B)	(C)
Unskilled	89.00	80.00	80.00
Semi-Skilled/Unskilled Supervisory	97.00	89.00	80.00
Skilled/Clerical	104.00	97.00	89.00
Highly Skilled	115.00	107.00	97.00

**Proceedings No.1/2(1)/2014-LS-II, dated 04.03.2014:-**

Category of Workers	Rates of V.D.A. area wise (In Rupees)		
	(A)	(B)	(C)
Unskilled	101.00	91.00	91.00
Semi-Skilled/Unskilled Supervisory	110.00	101.00	91.00
Skilled/Clerical	118.00	110.00	103.00
Highly Skilled	130.00	121.00	110.00

**Proceedings No.1/17(1)/2014-LS-II, dated 29.09.2014:-**

Category of Workers	Rates of V.D.A. area wise (In Rupees)		
	(A)	(B)	(C)
Unskilled	103.00	93.00	93.00
Semi-Skilled/Unskilled Supervisory	112.00	103.00	93.00
Skilled/Clerical	121.00	112.00	103.00
Highly Skilled	133.00	124.00	112.00

**Proceedings No.1/3(1)/2015-LS-II, dated 30.03.2015:-**

Category of Workers	Rates of V.D.A. area wise (In Rupees)		
	(A)	(B)	(C)
Unskilled	112.00	102.00	102.00
Semi-Skilled/Unskilled Supervisory	122.00	112.00	102.00
Skilled/Clerical	132.00	122.00	122.00
Highly Skilled	145.00	135.00	122.00

**Proceedings No.1/15(1)/2015-LS-II, dated 30.09.2015:-**

Category of Workers	Rates of V.D.A. area wise (In Rupees)		
	(A)	(B)	(C)
Unskilled	112.00	102.00	102.00
Semi-Skilled/Unskilled Supervisory	122.00	112.00	102.00
Skilled/Clerical	132.00	122.00	112.00
Highly Skilled	145.00	135.00	122.00

Therefore, the minimum rates of wages including the basic rates and Variable Dearness Allowance payable, with effect from the respective dates, to the employees working in Agriculture would be as under:-

**Proceedings No.1/11(1)/2013-LS-II, dated 19.09.2013:-**

Category of Workers	Rates of wages including V.D.A. Area wise per day (In Rupees)		
	(A)	(B)	(C)
Unskilled	$\frac{114.00 + 89.00}{203.00}$	$\frac{104.00 + 80.00}{184.00}$	$\frac{102.00 + 80.00}{182.00}$
Semi-Skilled/Unskilled Supervisory	$\frac{125.00 + 97.00}{222.00}$	$\frac{116.00 + 89.00}{205.00}$	$\frac{107.00 + 80.00}{187.00}$
Skilled/Clerical	$\frac{137.00 + 104.00}{241.00}$	$\frac{125.00 + 97.00}{222.00}$	$\frac{115.00 + 89.00}{204.00}$
Highly Skilled	$\frac{153.00 + 115.00}{268.00}$	$\frac{141.00 + 107.00}{248.00}$	$\frac{125.00 + 97.00}{222.00}$

**Proceedings No.1/2(1)/2014-LS-II, dated 04.03.2014:-**

Category of Workers	Rates of wages including V.D.A. Area wise per day (In Rupees)		
	(A)	(B)	(C)

	(A)	(B)	(C)
Unskilled	$\frac{114.00 + 101.00}{215.00}$	$\frac{104.00 + 91.00}{195.00}$	$\frac{102.00 + 91.00}{193.00}$
Semi-Skilled/Unskilled Supervisory	$\frac{125.00 + 110.00}{235.00}$	$\frac{116.00 + 101.00}{217.00}$	$\frac{107.00 + 91.00}{198.00}$
Skilled/Clerical	$\frac{137.00 + 118.00}{255.00}$	$\frac{125.00 + 110.00}{235.00}$	$\frac{115.00 + 101.00}{216.00}$
Highly Skilled	$\frac{153.00 + 130.00}{283.00}$	$\frac{141.00 + 121.00}{262.00}$	$\frac{125.00 + 110.00}{235.00}$

**Proceedings No.1/17(1)/2014-LS-II, dated 29.09.2014:-**

Category of Workers	Rates of wages including V.D.A. Area wise per day (In Rupees)		
	(A)	(B)	(C)
Unskilled	$\frac{114.00 + 103.00}{217.00}$	$\frac{104.00 + 93.00}{197.00}$	$\frac{102.00 + 93.00}{195.00}$
Semi-Skilled/Unskilled Supervisory	$\frac{125.00 + 112.00}{237.00}$	$\frac{116.00 + 103.00}{219.00}$	$\frac{107.00 + 93.00}{200.00}$
Skilled/Clerical	$\frac{137.00 + 121.00}{258.00}$	$\frac{125.00 + 112.00}{237.00}$	$\frac{115.00 + 103.00}{218.00}$
Highly Skilled	$\frac{153.00 + 133.00}{286.00}$	$\frac{141.00 + 124.00}{265.00}$	$\frac{125.00 + 112.00}{237.00}$

**Proceedings No.1/3(1)/2015-LS-II, dated 30.03.2015:-**

Category of Workers	Rates of V.D.A. area wise (In Rupees)		
	(A)	(B)	(C)
Unskilled	$\frac{114.00 + 112.00}{226.00}$	$\frac{104.00 + 102.00}{206.00}$	$\frac{102.00 + 102.00}{204.00}$
Semi-Skilled/Unskilled Supervisory	$\frac{125.00 + 122.00}{247.00}$	$\frac{116.00 + 112.00}{228.00}$	$\frac{107.00 + 102.00}{209.00}$
Skilled/Clerical	$\frac{137.00 + 132.00}{269.00}$	$\frac{125.00 + 122.00}{247.00}$	$\frac{115.00 + 112.00}{227.00}$

	(A)	(B)	(C)
	269.00	247.00	227.00
Highly Skilled	$\frac{153.00 + 145.00}{298.00}$	$\frac{141.00 + 135.00}{276.00}$	$\frac{125.00 + 122.00}{247.00}$

**Proceedings No.1/3(1)/2015-LS-II, dated 30.03.2015:-**

Category of Workers	Rates of V.D.A. area wise (In Rupees)		
	(A)	(B)	(C)
Unskilled	$\frac{114.00 + 112.00}{226.00}$	$\frac{104.00 + 102.00}{206.00}$	$\frac{102.00 + 102.00}{204.00}$
Semi-Skilled/Unskilled Supervisory	$\frac{125.00 + 122.00}{247.00}$	$\frac{116.00 + 112.00}{228.00}$	$\frac{107.00 + 102.00}{209.00}$
Skilled/Clerical	$\frac{137.00 + 132.00}{269.00}$	$\frac{125.00 + 122.00}{247.00}$	$\frac{115.00 + 112.00}{227.00}$
Highly Skilled	$\frac{153.00 + 145.00}{298.00}$	$\frac{141.00 + 135.00}{276.00}$	$\frac{125.00 + 122.00}{247.00}$

The VDA has been rounded off to the next higher rupee as per the decision of the Minimum Wages Advisory board meeting held on 26-8-2008.

The classification of workers under different categories and the classification of cities under different areas will be same as in the notification referred to in para 1 as amended from time to time. The present classification of cities into areas A, B & C is enclosed at Annexure I for ready reference.

Sd/-

(P.P.MITRA)

CHIEF LABOUR COMMISSIONER (C).

**INDUSTRIAL WORKERS:-**

“In exercise of the powers conferred by Central Government vide S.O.1286 (E), dated 20<sup>th</sup> May, 2009 of the

Ministry of Labour and Employment, the Chief Labour Commissioner, Ministry of Labour and Employment, Government of India, New Delhi, has revised the rates of Variable Dearness Allowance for the Industrial Workers, vide, proceedings No.1/11(2)/2015-LS-II, dated 19.09.2013, [w.e.f. 01.10.2013 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 30.06.2013, reaching 225.05 from 215.83 (Base 2001=100) and thereby resulting in an increase of 9.22 points]; Proceedings No.1/2(2)/2014-LS-II, dated 04.03.2014 [w.e.f. 01.04.2014 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 31.12.2013, reaching 238.83 from 225.05 (Base 2001=100) and thereby resulting in an increase of 13.78 points]; Proceedings No.1/17(2)/2014-LS-II, dated 29.09.2014 [w.e.f. 01.10.2014 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 30.06.2014, reaching 241.00 from 238.83 (Base 2001=100) and thereby resulting in an increase of 2.17 points]; Proceedings No.1/3(2)/2015-LS-II, dated 30.03.2015 [w.e.f. 01.04.2015 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 31.12.2014, reaching 252.83 from 241 (Base 2001=100) and thereby resulting in an increase of 11.83 points]; and Proceedings No.1/15(2)/2015-LS-II, dated 30.09.2015 [w.e.f. 01.10.2015 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 30.06.2015, reaching 256 from 252.83 (Base 2001=100) and thereby resulting in an increase of 3.17 points].

Rates of Variable Dearness Allowance for employees employed in employments in Gypsum Mines, Barytes Mines, Bauxite Mines, Manganese Mines, China Clay Mines, Kyanite Mines, Copper Mines, Clay Mines, Magnesite Mines, White Clay Mines, Stone Mines, Steatite Mines (including the mines producing Soap Stones and Talc), Ochre Mines, Asbestos Mines, Fire Clay Mines, Chromite Mines, Quartzite Mines, Quartz Mines, Silica Mines, Graphite Mines, Felspar Mines, Laterite Mines, Dolomite Mines, Red Oxide Mines, Wolfram Mines Iron Ore Mines, Granite Mines Rock Phosphate Mines, Hematite Mines, Marble and Calcite Mines, Uranium Mines, Mica Mines, Lignite Mines, Gravel Mines, Slate Mines and Magnetite Mines would be as under:-

**Proceedings No.1/11(2)/2013-LS-II, dated 19.09.2013:-**

Category of Workers	Rates of V.D.A. (In Rupees) per Day	
	For Work above ground	For work below ground
Unskilled	87.00	107.00
Semi-Skilled/Unskilled Supervisory	107.00	130.00
Skilled/Clerical	130.00	150.00
Highly Skilled	150.00	170.00

**Proceedings No.1/2(2)/2014-LS-II, dated 04.03.2014:-**

Category of Workers	Rates of V.D.A. (In Rupees) per Day	
	For Work above ground	For work below ground
Unskilled	100.00	123.00
Semi-Skilled/Unskilled Supervisory	123.00	149.00



	For Work above ground	For work below ground
Skilled/Clerical	149.00	172.00
Highly Skilled	172.00	195.00

**Proceedings No.1/17(2)/2014-LS-II, dated 29.09.2014:-**

Category of Workers	Rates of V.D.A. (In Rupees) per Day	
	For Work above ground	For work below ground
Unskilled	102.00	126.00
Semi-Skilled/Unskilled Supervisory	126.00	152.00
Skilled/Clerical	152.00	176.00
Highly Skilled	176.00	199.00

**Proceedings No.1/3(2)/2015-LS-II, dated 30.03.2015:-**

Category of Workers	Rates of V.D.A. (In Rupees) per Day	
	For Work above ground	For work below ground
Unskilled	113.00	140.00
Semi-Skilled/Unskilled Supervisory	140.00	168.00
Skilled/Clerical	168.00	195.00
Highly Skilled	195.00	221.00

**Proceedings No.1/15(2)/2015-LS-II, dated 30.09.2015:-**

Category of Workers	Rates of V.D.A. (In Rupees) per Day	
	For Work above ground	For work below ground
Unskilled	116.00	144.00
Semi-Skilled/Unskilled Supervisory	144.00	173.00
Skilled/Clerical	173.00	201.00
Highly Skilled	201.00	227.00

Therefore, the minimum rates of wages showing the basic rate and Variable Dearness Allowance payable with effect from the respective dates, will be as under:-

**Proceedings No.1/11(2)/2013-LS-II, dated 19.09.2013:-**

Category of Workers	Rates of wages including V.D.A. (In Rupees) per Day	
	For Work above ground	For work below ground
Unskilled	$\frac{120.00 + 87.00}{207.00}$	$\frac{150.00 + 107.00}{257.00}$
Semi-Skilled/Unskilled Supervisory	$\frac{150.00 + 107.00}{257.00}$	$\frac{180.00 + 130.00}{310.00}$
Skilled/Clerical	$\frac{180.00 + 130.00}{310.00}$	$\frac{210.00 + 150.00}{360.00}$
Highly Skilled	$\frac{210.00 + 150.00}{360.00}$	$\frac{240.00 + 170.00}{410.00}$

**Proceedings No.1/2(2)/2014-LS-II, dated 04.03.2014:-**

Category of Workers	Rates of wages including V.D.A. (In Rupees) per Day	
	For Work above ground	For work below ground
Unskilled	$\frac{120.00 + 100.00}{222.00}$	$\frac{150.00 + 123.00}{273.00}$
Semi-Skilled/Unskilled Supervisory	$\frac{150.00 + 123.00}{273.00}$	$\frac{180.00 + 149.00}{329.00}$
Skilled/Clerical	$\frac{180.00 + 149.00}{329.00}$	$\frac{210.00 + 172.00}{382.00}$
Highly Skilled	$\frac{210.00 + 172.00}{382.00}$	$\frac{240.00 + 195.00}{435.00}$

**Proceedings No.1/17(2)/2014-LS-II, dated 29.09.2014:-**

Category of Workers	Rates of wages including V.D.A. (In Rupees) per Day
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	For Work above ground	For work below ground
Unskilled	$\frac{120.00 + 102.00}{222.00}$	$\frac{150.00 + 126.00}{276.00}$
Semi-Skilled/Unskilled Supervisory	$\frac{150.00 + 126.00}{276.00}$	$\frac{180.00 + 152.00}{332.00}$
Skilled/Clerical	$\frac{180.00 + 152.00}{332.00}$	$\frac{210.00 + 176.00}{386.00}$
Highly Skilled	$\frac{210.00 + 176.00}{386.00}$	$\frac{240.00 + 199.00}{439.00}$

**Proceedings No.1/3(2)/2015-LS-II, dated 30.03.2015:-**

Category of Workers	Rates of wages including V.D.A. (In Rupees) per Day	
	For Work above ground	For work below ground
Unskilled	$\frac{120.00 + 113.00}{233.00}$	$\frac{150.00 + 140.00}{290.00}$
Semi-Skilled/Unskilled Supervisory	$\frac{150.00 + 140.00}{290.00}$	$\frac{180.00 + 168.00}{348.00}$
Skilled/Clerical	$\frac{180.00 + 168.00}{348.00}$	$\frac{210.00 + 195.00}{405.00}$
Highly Skilled	$\frac{210.00 + 195.00}{405.00}$	$\frac{240.00 + 221.00}{461.00}$

**Proceedings No.1/15(2)/2015-LS-II, dated 30.09.2015:-**

Category of Workers	Rates of wages including V.D.A. (In Rupees) per Day	
	For Work above ground	For work below ground
Unskilled	$\frac{120.00 + 116.00}{236.00}$	$\frac{150.00 + 144.00}{294.00}$
Semi-Skilled/Unskilled Supervisory	$\frac{150.00 + 144.00}{294.00}$	$\frac{180.00 + 173.00}{353.00}$
Skilled/Clerical	$\frac{180.00 + 173.00}{353.00}$	$\frac{210.00 + 201.00}{411.00}$
Highly Skilled	$\frac{210.00 + 201.00}{411.00}$	$\frac{240.00 + 227.00}{467.00}$

	For Work above ground	For work below ground
	411.00	467.00

The VDA has been rounded off to the next higher rupee as per the decision of the Minimum Wages Advisory Board meeting held on 26.08.2008.

Sd/-  
(P.P.MITRA)  
CHIEF LABOUR COMMISSIONER (C).

### **INDUSTRIAL WORKERS:-**

“In exercise of the powers conferred by Central Government vide S.O.1285 (E), dated 20.05.2009 of the Ministry of Labour and Employment, the Chief Labour Commissioner, Ministry of Labour and Employment, Government of India, New Delhi, has revised the rates of Variable Dearness Allowance for the **Industrial Workers**, vide, proceedings No.1/11(3)/2015-LS-II, dated 19.09.2013, [w.e.f. 01.10.2013 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 30.06.2013, reaching 225.05 from 215.83 (Base 2001=100) and thereby resulting in an increase of 9.22 points]; Proceedings No.1/2(3)/2014-LS-II, dated 04.03.2014 [w.e.f. 01.04.2014 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 31.12.2013, reaching 238.83 from 225.05 (Base 2001=100) and thereby resulting in an increase of 13.78 points]; Proceedings No.1/17(3)/2014-LS-II, dated 29.09.2014 [w.e.f. 01.10.2014 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 30.06.2014, reaching 241.00 from 238.83 (Base 2001=100) and thereby resulting in an increase of 2.17 points];

Proceedings No.1/3(3)/2015-LS-II, dated 30.03.2015 [w.e.f. 01.04.2015 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 31.12.2014, reaching 252.83 from 241 (Base 2001=100) and thereby resulting in an increase of 11.83 points]; and Proceedings No.1/15(3)/2015-LS-II, dated 30.09.2015 [w.e.f. 01.10.2015 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 30.06.2015, reaching 256 from 252.83 (Base 2001=100) and thereby resulting in an increase of 3.17 points].

The rates of Variable Dearness Allowance for workers employed in **CONSTRUCTION OR MAINTENANCE OF ROADS OR RUNWAYS OR IN BUILDING OPERATIONS INCLUDING LAYING DOWN UNDERGROUND ELECTRIC, WIRELESS, RADIO, TELEVISION, TELEPHONE, TELEGRAPH AND OVERSEAS COMMUNICATION CABLES AND SIMILAR OTHER UNDERGROUND CABLING WORK, ELECTRIC LINES, WATER SUPPLY LINES AND SEWERAGE PIPE LINES** would be as under:-

**Proceedings No.1/11(3)/2013-LS-II, dated 19.09.2013:-**

Category of Workers	Rates of V.D.A. area wise (In Rupees)		
	(A)	(B)	(C)
Unskilled	130.00	107.00	87.00
Semi-Skilled/Unskilled Supervisory	142.00	121.00	101.00
Skilled/Clerical	157.00	142.00	121.00
Highly Skilled	170.00	157.00	142.00

**Proceedings No.1/2(3)/2014-LS-II, dated 04.03.2014:-**

Category of Workers	Rates of V.D.A. area wise (In Rupees)		
	(A)	(B)	(C)
Unskilled	149.00	123.00	100.00
Semi-Skilled/Unskilled Supervisory	163.00	139.00	116.00
Skilled/Clerical	180.00	163.00	139.00
Highly Skilled	195.00	180.00	163.00

**Proceedings No.1/17(3)/2014-LS-II, dated 29.09.2014:-**

Category of Workers	Rates of V.D.A. area wise (In Rupees)		
	(A)	(B)	(C)
Unskilled	152.00	126.00	102.00
Semi-Skilled/Unskilled Supervisory	167.00	142.00	119.00
Skilled/Clerical	184.00	167.00	142.00
Highly Skilled	199.00	184.00	167.00

**Proceedings No.1/3(3)/2015-LS-II, dated 30.03.2015:-**

Category of Workers	Rates of V.D.A. area wise (In Rupees)		
	(A)	(B)	(C)
Unskilled	168.00	140.00	113.00
Semi-Skilled/Unskilled Supervisory	185.00	158.00	132.00
Skilled/Clerical	204.00	185.00	158.00

	(A)	(B)	(C)
Highly Skilled	221.00	204.00	185.00

**Proceedings No.1/15(3)/2015-LS-II, dated 30.09.2015:-**

Category of Workers	Rates of V.D.A. area wise (In Rupees)		
	(A)	(B)	(C)
Unskilled	173.00	144.00	116.00
Semi-Skilled/Unskilled Supervisory	190.00	163.00	136.00
Skilled/Clerical	210.00	190.00	163.00
Highly Skilled	227.00	210.00	190.00

Therefore, the minimum rates of wages showing basic rates and Variable Dearness Allowance payable with effect from the respective dates, will be as under:-

**Proceedings No.1/11(3)/2013-LS-II, dated 19.09.2013:-**

Category of Workers	Rates of wages including V.D.A., per day (In Rupees)		
	(A) Area	(B) Area	(C) Area
Unskilled	$\frac{180.00 + 130.00}{310.00}$	$\frac{150.00 + 107.00}{257.00}$	$\frac{102.00 + 87.00}{207.00}$
Semi-Skilled/Unskilled Supervisory	$\frac{200.00 + 142.00}{342.00}$	$\frac{170.00 + 121.00}{291.00}$	$\frac{140.00 + 101.00}{241.00}$
Skilled/Clerical	$\frac{220.00 + 157.00}{377.00}$	$\frac{200.00 + 142.00}{342.00}$	$\frac{170.00 + 121.00}{291.00}$
Highly Skilled	$\frac{240.00 + 170.00}{410.00}$	$\frac{220.00 + 157.00}{377.00}$	$\frac{200.00 + 142.00}{342.00}$

**Proceedings No.1/2(3)/2014-LS-II, dated 04.03.2014:-**

Category of Workers	Rates of wages including V.D.A., per day (In Rupees)		
	(A) Area	(B) Area	(C) Area
Unskilled	$\frac{180.00 + 149.00}{329.00}$	$\frac{150.00 + 123.00}{273.00}$	$\frac{102.00 + 100.00}{222.00}$
Semi-Skilled/Unskilled Supervisory	$\frac{200.00 + 163.00}{363.00}$	$\frac{170.00 + 139.00}{309.00}$	$\frac{140.00 + 116.00}{256.00}$
Skilled/Clerical	$\frac{220.00 + 180.00}{400.00}$	$\frac{200.00 + 163.00}{363.00}$	$\frac{170.00 + 139.00}{309.00}$
Highly Skilled	$\frac{240.00 + 195.00}{435.00}$	$\frac{220.00 + 180.00}{400.00}$	$\frac{200.00 + 163.00}{363.00}$

**Proceedings No.1/17(3)/2014-LS-II, dated 29.09.2014:-**

Category of Workers	Rates of wages including V.D.A., per day (In Rupees)		
	(A) Area	(B) Area	(C) Area
Unskilled	$\frac{180.00 + 152.00}{332.00}$	$\frac{150.00 + 126.00}{276.00}$	$\frac{102.00 + 102.00}{222.00}$
Semi-Skilled/Unskilled Supervisory	$\frac{200.00 + 167.00}{367.00}$	$\frac{170.00 + 142.00}{312.00}$	$\frac{140.00 + 119.00}{259.00}$
Skilled/Clerical	$\frac{220.00 + 184.00}{404.00}$	$\frac{200.00 + 167.00}{367.00}$	$\frac{170.00 + 142.00}{312.00}$
Highly Skilled	$\frac{240.00 + 199.00}{439.00}$	$\frac{220.00 + 184.00}{404.00}$	$\frac{200.00 + 167.00}{367.00}$

**Proceedings No.1/3(3)/2015-LS-II, dated 30.03.2015:-**

Category of Workers	Rates of wages including V.D.A., per day (In Rupees)		
	(A) Area	(B) Area	(C) Area
Unskilled	$\frac{180.00 + 168.00}{348.00}$	$\frac{150.00 + 140.00}{290.00}$	$\frac{102.00 + 113.00}{233.00}$
Semi-	$\frac{200.00 + 185.00}{385.00}$	$\frac{170.00 + 158.00}{328.00}$	$\frac{140.00 + 132.00}{272.00}$



	(A) Area	(B) Area	(C) Area
Skilled/Unskilled Supervisory	385.00	328.00	272.00
Skilled/Clerical	$\frac{220.00 + 204.00}{424.00}$	$\frac{200.00 + 185.00}{385.00}$	$\frac{170.00 + 158.00}{328.00}$
Highly Skilled	$\frac{240.00 + 221.00}{461.00}$	$\frac{220.00 + 204.00}{424.00}$	$\frac{200.00 + 185.00}{385.00}$

**Proceedings No.1/15(3)/2015-LS-II, dated 30.09.2015:-**

Category of Workers	Rates of wages including V.D.A., per day (In Rupees)		
	(A) Area	(B) Area	(C) Area
Unskilled	$\frac{180.00 + 173.00}{353.00}$	$\frac{150.00 + 144.00}{294.00}$	$\frac{102.00 + 116.00}{236.00}$
Semi-Skilled/Unskilled Supervisory	$\frac{200.00 + 190.00}{390.00}$	$\frac{170.00 + 163.00}{333.00}$	$\frac{140.00 + 136.00}{276.00}$
Skilled/Clerical	$\frac{220.00 + 210.00}{430.00}$	$\frac{200.00 + 190.00}{390.00}$	$\frac{170.00 + 163.00}{333.00}$
Highly Skilled	$\frac{240.00 + 227.00}{467.00}$	$\frac{220.00 + 210.00}{430.00}$	$\frac{200.00 + 190.00}{390.00}$

The VDA has been rounded off to the next higher rupee as per the decision of the Minimum Wages Advisory board meeting held on 26-8-2008.

The classification of workers under different categories and the classification of cities under different areas will be same as in the notification referred to in para 1 as amended from time to time. The present classification of cities into areas A,B&C is enclosed at Annexure I for ready reference.

Sd/-  
(P.P.MITRA)  
CHIEF LABOUR COMMISSIONER (C).

**Workers engaged in Stone Mines for Stone Breaking and Stone**

### **Crushing**

“In exercise of the powers conferred by Central Government vide S.O.278 (E), dated 3<sup>rd</sup> March 2006, of the Ministry of Labour and Employment, the Chief Labour Commissioner, Ministry of Labour and Employment, Government of India, New Delhi, has revised the payment of Variable Dearness Allowance to workers engaged in Stone Mines for Stone Breaking and Stone Crushing, vide, proceedings No.1/11(4)/2015-LS-II, dated 19.09.2013, [w.e.f. 01.10.2013 on the basis of rise in the average Consumer Price Index reaching 1044.06 from 999.30 (Base 1982=100) and thereby resulting in an increase of 44.76 points]; Proceedings No.1/2(4)/2014-LS-II, dated 04.03.2014 [w.e.f. 01.04.2014 on the basis of rise in the average Consumer Price Index reaching 1105.79 from 1044.06 (Base 1982=100) and thereby resulting in an increase of 61.73 points]; Proceedings No.1/17(4)/2014-LS-II, dated 29.09.2014 [w.e.f. 01.10.2014 on the basis of rise in the average Consumer Price Index reaching 1115.83 from 1105.79 (Base 1982=100) and thereby resulting in an increase of 10.04 points]; Proceedings No.1/3(4)/2015-LS-II, dated 30.03.2015 [w.e.f. 01.04.2015 on the basis of rise in the average Consumer Price Index reaching 1170.61 from 1115.83 (Base 1982=100) and thereby resulting in an increase of 54.78 points]; and Proceedings No.1/15(4)/2015-LS-II, dated 30.09.2015 [w.e.f. 01.10.2015 on the basis of rise in the average Consumer Price Index reaching 1185.28 from 1170.61 (Base 1982=100) and thereby resulting in an increase of 14.67 points]. The revised rates of Variable Dearness Allowance with effect from the respective dates, shall be as under:-

**Proceedings No.1/11(4)/2013-LS-II, dated 19.09.2013:-**

Item of Work	Rates of Variable Dearness Allowance as on the respective dates
1. Excavation & removal of over burden with 50 meters lead/ 1.5 meters lift. *	
(i) Soft Soil	Rs.103.53
(ii) Soft Soil with rock	Rs.155.27
(iii) Rock	Rs.207.07
2. Removal and stacking of rejected stones with 50 meters lead/1.5 Meters lift. *	Rs.82.82
3. Stone breaking or Stone Crushing for the Stone size of:-	
1.0 inch to 1.5 inches	Rs.641.93
Above 1.5 inches to 3.0 inches	Rs.548.73
Above 3.0 inches to 5.0 inches	Rs.320.95
Above 5.0 inches	Rs.264.01

**Proceedings No.1/2(4)/2014-LS-II, dated 04.03.2014:-**

Item of Work	Rates of Variable Dearness Allowance as on 01.10.2014
1. Excavation & removal of over burden with 50 meters lead/ 1.5 meters lift. *	
(i) Soft Soil	Rs.115.87
(ii) Soft Soil with rock	Rs.173.78
(iii) Rock	Rs.231.76
2. Removal and stacking of rejected stones with 50 meters lead/1.5 Meters lift. *	Rs.94.69

Item of Work	Rates of Variable Dearness Allowance as on 01.10.2014
3. Stone breaking or Stone Crushing for the Stone size of:-	
1.0 inch to 1.5 inches	Rs.718.47
Above 1.5 inches to 3.0 inches	Rs.614.16
Above 3.0 inches to 5.0 inches	Rs.359.22
Above 5.0 inches	Rs.295.49

**Proceedings No.1/17(4)/2014-LS-II, dated 29.09.2014:-**

Item of Work	Rates of Variable Dearness Allowance as on 01.10.2014
1. Excavation & removal of over burden with 50 meters lead/ 1.5 meters lift. *	
(i) Soft Soil	Rs.117.87
(ii) Soft Soil with rock	Rs.176.79
(iii) Rock	Rs.235.77
2. Removal and stacking of rejected stones with 50 meters lead/1.5 Meters lift. *	Rs.94.29
3. Stone breaking or Stone Crushing for the Stone size of:-	
1.0 inch to 1.5 inches	Rs.730.91
Above 1.5 inches to 3.0 inches	Rs.624.80
Above 3.0 inches to 5.0 inches	Rs.365.44
Above 5.0 inches	Rs.300.61

**Proceedings No.1/3(4)/2015-LS-II, dated 30.03.2015:-**

Item of Work	Rates of Variable Dearness Allowance as on 01.10.2014
1. Excavation & removal of over burden with 50	

Item of Work	Rates of Variable Dearness Allowance as on 01.10.2014
meters lead/ 1.5 meters lift. *	
(i) Soft Soil	Rs.129
(ii) Soft Soil with rock	Rs.194
(iii) Rock	Rs.258
2. Removal and stacking of rejected stones with 50 meters lead/1.5 Meters lift. *	Rs.104
3. Stone breaking or Stone Crushing for the Stone size of:-	
1.0 inch to 1.5 inches	Rs.799
Above 1.5 inches to 3.0 inches	Rs.684
Above 3.0 inches to 5.0 inches	Rs.400
Above 5.0 inches	Rs.329

**Proceedings No.1/15(4)/2015-LS-II, dated 30.09.2015:-**

Item of Work	Rates of Variable Dearness Allowance as on 01.10.2014
1. Excavation & removal of over burden with 50 meters lead/ 1.5 meters lift. *	
(i) Soft Soil	Rs.132
(ii) Soft Soil with rock	Rs.199
(iii) Rock	Rs.264
2. Removal and stacking of rejected stones with 50 meters lead/1.5 Meters lift. *	Rs.107
3. Stone breaking or Stone Crushing for the Stone size of:-	
1.0 inch to 1.5 inches	Rs.818

Item of Work	Rates of Variable Dearness Allowance as on 01.10.2014
Above 1.5 inches to 3.0 inches	Rs.700
Above 3.0 inches to 5.0 inches	Rs.410
Above 5.0 inches	Rs.337

Therefore, the minimum piece rate wages showing the basic and Variable Dearness Allowance payable with effect from the respective dates, to the employees employed in Stone breaking or Stone Crushing shall be as under:-

**Proceedings No.1/11(4)/2013-LS-II, dated 19.09.2013:-**

Category	Basic Wages + VDA	Total
1. Excavation & removal of over burden with 50 meters Lead/ 1.5 meters lift. *		
(i) Soft Soil	Rs.103.53 + Rs.103.53	Rs.207.06
(ii) Soft Soil with rock	Rs.157.78 + Rs.155.27	Rs.313.05
(iii) Rock	Rs.208.09 + Rs.207.07	Rs.415.16
2. Removal and stacking of rejected stones with 50 meters lead/1.5 Meters lift. *	Rs.82.44 + Rs.82.82	Rs.165.26
3. Stone breaking or Stone Crushing for the Stone size of:-		
1.0 inch to 1.5 inches	Rs.646.44 + Rs.641.93	Rs.1288.37
Above 1.5 inches to 3.0 inches	Rs.552.12 + Rs.548.73	Rs.1100.85
Above 3.0 inches to 5.0 inches	Rs.322.69 + Rs.320.95	Rs.643.64
Above 5.0 inches	Rs.264.47 + Rs.264.01	Rs.528.48

**Proceedings No.1/2(4)/2014-LS-II, dated 04.03.2014:-**

Category	Basic Wages + VDA	Total
1. Excavation & removal of over burden with 50 meters Lead/ 1.5 meters lift. *		
(i) Soft Soil	Rs.103.53 + Rs.115.87	Rs.219.40
(ii) Soft Soil with rock	Rs.157.78 + Rs.173.78	Rs.331.56
(iii) Rock	Rs.208.09 + Rs.231.76	Rs.439.85
2. Removal and stacking of rejected stones with 50 meters lead/1.5 Meters lift. *	Rs.82.44 + Rs.92.69	Rs.175.13
3. Stone breaking or Stone Crushing for the Stone size of:-		
1.0 inch to 1.5 inches	Rs.646.44 + Rs.718.47	Rs.1364.91
Above 1.5 inches to 3.0 inches	Rs.552.12 + Rs.614.16	Rs.1166.28
Above 3.0 inches to 5.0 inches	Rs.322.69 + Rs.359.22	Rs.681.91
Above 5.0 inches	Rs.264.47 + Rs.295.49	Rs.559.96

**Proceedings No.1/17(4)/2014-LS-II, dated 29.09.2014:-**

Category	Basic Wages + VDA	Total
1. Excavation & removal of over burden with 50 meters Lead/ 1.5 meters lift. *		
(i) Soft Soil	Rs.103.53 + Rs.117.87	Rs.221.40
(ii) Soft Soil with rock	Rs.157.78 + Rs.176.79	Rs.334.57
(iii) Rock	Rs.208.09 + Rs.235.77	Rs.443.80
2. Removal and stacking of rejected stones with 50 meters lead/1.5 Meters lift. *	Rs.82.44 + Rs.94.29	Rs.176.73

Category	Basic Wages + VDA	Total
3. Stone breaking or Stone Crushing for the Stone size of:-		
1.0 inch to 1.5 inches	Rs.646.44 + Rs.730.91	Rs.1377.35
Above 1.5 inches to 3.0 inches	Rs.552.12 + Rs.624.80	Rs.1176.92
Above 3.0 inches to 5.0 inches	Rs.322.69 + Rs.365.44	Rs.688.13
Above 5.0 inches	Rs.264.47 + Rs.300.61	Rs.565.08

**Proceedings No.1/3(4)/2015-LS-II, dated 30.03.2015:-**

Category	Basic Wages + VDA	Total
1. Excavation & removal of over burden with 50 meters Lead/ 1.5 meters lift. *		
(i) Soft Soil	Rs.103.53 + Rs.129	Rs.223
(ii) Soft Soil with rock	Rs.157.78 + Rs.194	Rs.352
(iii) Rock	Rs.208.09 + Rs.258	Rs.467
2. Removal and stacking of rejected stones with 50 meters lead/1.5 Meters lift. *	Rs.82.44 + Rs.104	Rs.187
3. Stone breaking or Stone Crushing for the Stone size of:-		
1.0 inch to 1.5 inches	Rs.646.44 + Rs.799	Rs.1446
Above 1.5 inches to 3.0 inches	Rs.552.12 + Rs.684	Rs.1237
Above 3.0 inches to 5.0 inches	Rs.322.69 + Rs.400	Rs.723
Above 5.0 inches	Rs.264.47 + Rs.329	Rs.594

**Proceedings No.1/15(4)/2015-LS-II, dated 30.09.2015:-**



Category	Basic Wages + VDA	Total
1. Excavation & removal of overburden with 50 meters Lead/ 1.5 meters lift. *		
(i) Soft Soil	Rs.103.53 + Rs.132	Rs.236
(ii) Soft Soil with rock	Rs.157.78 + Rs.199	Rs.357
(iii) Rock	Rs.208.09 + Rs.264	Rs.473
2. Removal and stacking of rejected stones with 50 meters lead/1.5 Meters lift. *	Rs.82.44 + Rs.107	Rs.190
3. Stone breaking or Stone Crushing for the Stone size of:-		
1.0 inch to 1.5 inches	Rs.646.44 + Rs.818	Rs.1465
Above 1.5 inches to 3.0 inches	Rs.552.12 + Rs.700	Rs.1253
Above 3.0 inches to 5.0 inches	Rs.322.69 + Rs.410	Rs.733
Above 5.0 inches	Rs.264.47 + Rs.337	Rs.602

The workers employed on minimum guaranteed time rate of wages per day would be entitled to time rate of minimum guaranteed time rate of wages per day would be entitled to time rate of minimum wages plus special allowance, if any, for unskilled category of above ground workers revised from time to time by the Central Government in respect of scheduled employment in stone mines.

\* Per 2.831 cube meters (100 cubic feet)

\*\* Per truck of 5.662 cubic meters (200 cubic feet)

Sd/-  
(P.P.MITRA)  
CHIEF LABOUR COMMISSIONER (C).

**INDUSTRIAL WORKERS:-**

“In exercise of the powers conferred by Central Government vide S.O.1284 (E), dated 20.05.2009 of the Ministry of Labour and Employment, the Chief Labour Commissioner, Ministry of Labour and Employment, Government of India, New Delhi, has revised the rates of Variable Dearness Allowance for the Industrial Workers, vide, proceedings No.1/11(5)/2015-LS-II, dated 19.09.2013, [w.e.f. 01.10.2013 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 30.06.2013, reaching 225.05 from 215.83 (Base 2001=100) and thereby resulting in an increase of 9.22 points]; Proceedings No.1/2(5)/2014-LS-II, dated 04.03.2014 [w.e.f. 01.04.2014 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 31.12.2013, reaching 238.83 from 225.05 (Base 2001=100) and thereby resulting in an increase of 13.78 points]; Proceedings No.1/17(5)/2014-LS-II, dated 29.09.2014 [w.e.f. 01.10.2014 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 30.06.2014, reaching 241 from 238.83 (Base 2001=100) and thereby resulting in an increase of 2.17 points]; Proceedings No.1/3(5)/2015-LS-II, dated 30.03.2015 [w.e.f. 01.04.2015 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 31.12.2014, reaching 252.83 from 241 (Base 2001=100) and thereby resulting in an increase of 11.83 points]; and Proceedings No.1/15(5)/2015-LS-II, dated 30.09.2015 [w.e.f. 01.10.2015 on the basis of the average Consumer Price Index for number for the preceding period of six months ending on 30.06.2015, reaching 256 from 252.83 (Base 2001=100) and thereby resulting

in an increase of 3.17 points].

RATES OF V.D.A. FOR EMPLOYEES EMPLOYED IN LOADING AND UNLOADING IN (i) GOODS SHEDS, PARCEL OFFICES OF RAILWAYS, (ii) OTHER GOODSHEDS, GODOWNS, WAREHOUSES ETC. AND (iii) DOCKS AND PORTS would be as under:-

Proceedings No.1/11(5)/2013-LS-II, dated 19.09.2013:-

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	130.00
“B”	107.00
“C”	87.00

Proceedings No.1/2(5)/2014-LS-II, dated 04.03.2014:-

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	149.00
“B”	123.00
“C”	100.00

Proceedings No.1/17(5)/2014-LS-II, dated 29.09.2014:-

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	152.00
“B”	126.00
“C”	102.00

Proceedings No.1/3(5)/2015-LS-II, dated 30.03.2015:-

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	168.00
“B”	140.00

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“C”	113.00

**Proceedings No.1/15(5)/2015-LS-II, dated 30.09.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	173.00
“B”	144.00
“C”	116.00

Therefore the minimum rates of wages showing the basic rates and Variable Dearness Allowance payable with effect from the respective dates, would be as under:-

**Proceedings No.1/11(5)/2013-LS-II, dated 19.09.2013:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	180.00	+ 130.00	= 310.00
“B”	150.00	+ 107.00	= 257.00
“C”	120.00	+ 87.00	= 207.00

**Proceedings No.1/2(5)/2014-LS-II, dated 04.03.2014:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	180.00	+ 149.00	= 329.00
“B”	150.00	+ 123.00	= 273.00
“C”	120.00	+ 100.00	= 220.00

**Proceedings No.1/17(5)/2014-LS-II, dated 29.09.2014:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	180.00	+ 152.00	= 332.00
“B”	150.00	+ 126.00	= 276.00
“C”	120.00	+ 102.00	= 222.00

**Proceedings No.1/3(5)/2015-LS-II, dated 30.03.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	180.00	+ 168.00	= 348.00
“B”	150.00	+ 140.00	= 290.00
“C”	120.00	+ 113.00	= 233.00

**Proceedings No.1/15(5)/2015-LS-II, dated 30.09.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	180.00	+ 173.00	= 353.00
“B”	150.00	+ 144.00	= 294.00
“C”	120.00	+ 116.00	= 236.00

The VDA has been rounded off to the next higher rupee as per the decision of the Minimum Wages Advisory Board meeting held on 26-8-2008.

Classification of workers under different categories and the classification of cities under different areas will be same as in the notification referred to in para I as amended from time to time. The present classification of cities into areas A, B & C is enclosed at Annexure I for ready reference.

Sd/-  
(P.P.MITRA)  
CHIEF LABOUR COMMISSIONER (C).

**Employment of Sweeping and Cleaning excluding activities prohibited under the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993**

“In exercise of the powers conferred by Central Government vide Notification No. S.O.1994(E) dated 7<sup>th</sup> Aug., 2008 of the Ministry of Labour & Employment, the Chief Labour Commissioner, Ministry of Labour and Employment, Government of India, New Delhi, has revised the payment of Variable Dearness Allowance for the employees engaged in "Employment of Sweeping and Cleaning excluding activities prohibited under the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, vide, proceedings No.1/11(6)/2015-LS-II, dated 19.09.2013, [w.e.f. 01.10.2013 on the basis of rise in the average Consumer Price Index reaching 225.05 from 215.83 (Base 2001=100) and thereby resulting in an increase of 9.22 points calculated on the basis of average for the period of six months ending on 30.06.2013]; Proceedings No.1/2(6)/2014-LS-II, dated 04.03.2014 [w.e.f. 01.04.2014 on the basis of rise in the average Consumer Price Index reaching 238.83 from 225.05 (Base 2001=100) and thereby resulting in an increase of 13.78 points calculated on the basis of average for the period of six months ending on 31.12.2013]; Proceedings No.1/17(6)/2014-LS-II, dated 29.09.2014 [w.e.f. 01.10.2014 on the basis of rise in the average Consumer Price Index reaching 241 from 238.83 (Base 2001=100) and thereby resulting in an increase of 2.17 points calculated on the basis of average for the period of six months ending on 30.06.2014]; Proceedings No.1/3(6)/2015-LS-II, dated 30.03.2015 [w.e.f. 01.04.2015 on the basis of rise in the average Consumer Price

Index reaching 252.83 from 241 (Base 2001=100) and thereby resulting in an increase of 11.83 points calculated on the basis of average for the period of six months ending on 30.06.2013 calculated on the basis of average for the period of six months ending on 31.12.2014]; and Proceedings No.1/15(6)/2015-LS-II, dated 30.09.2015 [w.e.f. 01.10.2015 on the basis of rise in the average Consumer Price Index reaching 256 from 252.83 (Base 2001=100) and thereby resulting in an increase of 3.17 points calculated on the basis of average for the period of six months ending on 30.06.2015].

**RATES OF V.D.A. FOR EMPLOYEES EMPLOYED IN "Employment of Sweeping and Cleaning excluding activities prohibited under the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993" would be as under:-**

**Proceedings No.1/11(6)/2013-LS-II, dated 19.09.2013:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
"A"	130.00
"B"	107.00
"C"	87.00

**Proceedings No.1/2(6)/2014-LS-II, dated 04.03.2014:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
"A"	149.00
"B"	123.00
"C"	100.00

**Proceedings No.1/17(6)/2014-LS-II, dated 29.09.2014:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	152.00
“B”	126.00
“C”	102.00

**Proceedings No.1/3(6)/2015-LS-II, dated 30.03.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	168.00
“B”	140.00
“C”	113.00

**Proceedings No.1/15(6)/2015-LS-II, dated 30.09.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	173.00
“B”	144.00
“C”	116.00

Therefore the minimum rates of wages showing the basic rates and Variable Dearness Allowance payable with effect from the respective dates, would be as under:-

**Proceedings No.1/11(6)/2013-LS-II, dated 19.09.2013:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	180.00	+ 130.00	= 310.00
“B”	150.00	+ 107.00	= 257.00
“C”	120.00	+ 87.00	= 207.00

**Proceedings No.1/2(6)/2014-LS-II, dated 04.03.2014:-**



AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	180.00	+ 149.00	= 329.00
“B”	150.00	+ 123.00	= 273.00
“C”	120.00	+ 100.00	= 220.00

**Proceedings No.1/17(6)/2014-LS-II, dated 29.09.2014:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	180.00	+ 152.00	= 332.00
“B”	150.00	+ 126.00	= 276.00
“C”	120.00	+ 102.00	= 222.00

**Proceedings No.1/3(6)/2015-LS-II, dated 30.03.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	180.00	+ 168.00	= 348.00
“B”	150.00	+ 140.00	= 290.00
“C”	120.00	+ 113.00	= 233.00

**Proceedings No.1/15(6)/2015-LS-II, dated 30.09.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	180.00	+ 173.00	= 353.00
“B”	150.00	+ 144.00	= 294.00
“C”	120.00	+ 116.00	= 236.00

The VDA has been rounded off to the next higher rupee as per the decision of the Minimum Wages Advisory Board meeting held on 26-8-2008.

Classification of workers under different categories and the classification of cities under different areas will be same as in the notification referred to in para I as amended from time to time. The present classification of cities into areas A, B & C is enclosed at Annexure I for ready reference.

Sd/-  
(P.P.MITRA)  
CHIEF LABOUR COMMISSIONER (C).

### **Employment of Watch and Ward**

“In exercise of the powers conferred by Central Government vide Notification No. S.O.2288(E) dated 18<sup>th</sup> September, 2012 of the Ministry of Labour & Employment, the Chief Labour Commissioner, Ministry of Labour and Employment, Government of India, New Delhi, has revised the payment of Variable Dearness Allowance for the **employees engaged in "Employment of Watch and Ward,** vide, proceedings No.1/11(7)/2015-LS-II, dated 19.09.2013, [w.e.f. 01.10.2013 on the basis of rise in the average Consumer Price Index reaching 225.05 from 215.83 (Base 2001=100) and thereby resulting in an increase of 9.22 points calculated on the basis of average for the period of six months ending on 30.06.2013]; Proceedings No.1/2(7)/2014-LS-II, dated 04.03.2014 [w.e.f. 01.04.2014 on the basis of rise in the average Consumer Price Index reaching 238.83 from 225.05 (Base 2001=100) and thereby resulting in an increase of 13.78 points calculated on the basis of average for the period of six months ending on 31.12.2013]; Proceedings No.1/17(7)/2014-LS-II, dated 29.09.2014 [w.e.f. 01.10.2014 on the basis of rise in the average Consumer Price Index reaching 241 from 238.83 (Base 2001=100) and thereby

resulting in an increase of 2.17 points calculated on the basis of average for the period of six months ending on 30.06.2014]; Proceedings No.1/3(7)/2015-LS-II, dated 30.03.2015 [w.e.f. 01.04.2015 on the basis of rise in the average Consumer Price Index reaching 252.83 from 241 (Base 2001=100) and thereby resulting in an increase of 11.83 points calculated on the basis of average for the period of six months ending on 30.06.2013 calculated on the basis of average for the period of six months ending on 31.12.2014]; and Proceedings No.1/15(7)/2015-LS-II, dated 30.09.2015 [w.e.f. 01.10.2015 on the basis of rise in the average Consumer Price Index reaching 256 from 252.83 (Base 2001=100) and thereby resulting in an increase of 3.17 points calculated on the basis of average for the period of six months ending on 30.06.2015].

**I. RATES OF V.D.A. FOR EMPLOYEES EMPLOYED IN**

**"Watch and Ward (Without arms)" would be as under:-**

**Proceedings No.1/11(7)/2013-LS-II, dated 19.09.2013:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
"A"	142.00
"B"	121.00
"C"	101.00

**Proceedings No.1/2(7)/2014-LS-II, dated 04.03.2014:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
"A"	163.00
"B"	139.00
"C"	116.00

**Proceedings No.1/17(7)/2014-LS-II, dated 29.09.2014:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	167.00
“B”	142.00
“C”	119.00

**Proceedings No.1/3(7)/2015-LS-II, dated 30.03.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	185.00
“B”	158.00
“C”	132.00

**Proceedings No.1/15(7)/2015-LS-II, dated 30.09.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	190.00
“B”	163.00
“C”	136.00

Therefore the minimum rates of wages showing the basic rates and Variable Dearness Allowance payable with effect from the respective dates, to employees employed in Watch and Ward (without arms) would be as under:-

**Proceedings No.1/11(7)/2013-LS-II, dated 19.09.2013:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	220.00	+ 142.00	= 342.00
“B”	200.00	+ 121.00	= 291.00
“C”	170.00	+ 101.00	= 241.00

**Proceedings No.1/2(7)/2014-LS-II, dated 04.03.2014:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	220.00	+ 163.00	= 363.00
“B”	200.00	+ 139.00	= 309.00
“C”	170.00	+ 116.00	= 256.00

**Proceedings No.1/17(7)/2014-LS-II, dated 29.09.2014:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	220.00	+ 167.00	= 367.00
“B”	200.00	+ 142.00	= 312.00
“C”	170.00	+ 119.00	= 259.00

**Proceedings No.1/3(7)/2015-LS-II, dated 30.03.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	220.00	+ 204.00	= 424.00
“B”	200.00	+ 185.00	= 385.00
“C”	170.00	+ 158.00	= 328.00

**Proceedings No.1/15(7)/2015-LS-II, dated 30.09.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	220.00	+ 190.00	= 390.00
“B”	200.00	+ 163.00	= 333.00
“C”	170.00	+ 136.00	= 276.00

**II. RATES OF V.D.A. FOR EMPLOYEES EMPLOYED IN "Watch and**

**Ward (With arms)** would be as under:-

**Proceedings No.1/11(7)/2013-LS-II, dated 19.09.2013:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	157.00
“B”	142.00
“C”	121.00

**Proceedings No.1/2(7)/2014-LS-II, dated 04.03.2014:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	180.00
“B”	163.00
“C”	139.00

**Proceedings No.1/17(7)/2014-LS-II, dated 29.09.2014:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	184.00
“B”	167.00
“C”	142.00

**Proceedings No.1/3(7)/2015-LS-II, dated 30.03.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	204.00
“B”	185.00
“C”	158.00

**Proceedings No.1/15(7)/2015-LS-II, dated 30.09.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)
“A”	210.00
“B”	190.00
“C”	163.00

Therefore the minimum rates of wages showing the basic rates and Variable Dearness Allowance payable with effect from the respective dates, to employees employed in Watch and Ward (with arms) would be as under:-

**Proceedings No.1/11(7)/2013-LS-II, dated 19.09.2013:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	220.00	+ 157.00	= 377.00
“B”	200.00	+ 142.00	= 342.00
“C”	170.00	+ 121.00	= 291.00

**Proceedings No.1/2(7)/2014-LS-II, dated 04.03.2014:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	220.00	+ 180.00	= 400.00
“B”	200.00	+ 163.00	= 363.00
“C”	170.00	+ 139.00	= 309.00

**Proceedings No.1/17(7)/2014-LS-II, dated 29.09.2014:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	200.00	+ 184.00	= 404.00
“B”	200.00	+ 167.00	= 367.00
“C”	170.00	+ 142.00	= 312.00

**Proceedings No.1/3(7)/2015-LS-II, dated 30.03.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	220.00	+ 185.00	= 385.00
“B”	200.00	+ 158.00	= 328.00
“C”	170.00	+ 132.00	= 272.00

**Proceedings No.1/15(7)/2015-LS-II, dated 30.09.2015:-**

AREA	RATES OF V.D.A. PER DAY (IN RS.)		
	Basic Wages (Rs.)	V.D.A.(Rs.)	Total (Rs.)
“A”	220.00	+ 210.00	= 430.00
“B”	200.00	+ 190.00	= 390.00
“C”	170.00	+ 163.00	= 333.00

The VDA has been rounded off to the next higher rupee as per the decision of the Minimum Wages Advisory Board meeting held on 26-8-2008.

Classification of workers under different categories and the classification of cities under different areas will be same as in the notification referred to in para I as amended from time to time. The present classification of cities into areas A, B & C is enclosed at Annexure I for ready reference.

Sd/- (P.P.MITRA)

CHIEF LABOUR COMMISSIONER (C).

53. Consumer Price Index depends upon the area, field of activity, trade or business. Let us take a sample, as to how the same has been considered, for periodical wage revision in Chennai District. On basis of Consumer Price Index for Chennai District, minimum wages per day for various categories of employees, has been revised and refixed by the District Collector, Madras. Proceedings have been issued in Roc.No.C2/12769/2010, dated 02.06.2010 for the year 2010-11; Roc.No.C2/12769/2010, dated 07.06.2010 for the year 2011-12; Roc.No.C2/8680/2013, dated 22.05.2013 for the year 2013-14; and



Roc.No.C2/12784/2014, dated 26.05.2014 for the year 2014-15. As per the proceedings of the Principal Secretary / Commissioner Department of Economics & Statistics letter No.Pdl 49/J/2015 dated 04.05.2015, the Consumer Price Index for Industrial Workers for Chennai District for the month of March 2015, has been fixed as 236 points. Thereafter, the daily wages for the year 2015-16 for categories have been fixed following the methodology hereunder

$$\text{Rate for the year (2015-2016)} = \frac{\text{Index for March 2015 (236)}}{\text{Index for March 2014 (221)}} \times \text{Rate for the year (2014-2015)}$$

Roc.No.C2/13459/2015, dated 29.05.2015 is for the year 2015-16. Details are tabulated hereunder:

Sl. No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (Rs.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
1	Auto Electrician	179	16.38	195	10.06	205	30.18	235	22.65	263	15.08	278	297
2	Attender	194	17.76	212	10.94	223	32.83	256	30.12	286	16.43	303	324
3	Brick Layer - I Class	209	19.13	228	11.77	240	35.34	275	32.35	307	17.65	325	347
4	Brick Layer - II Class	206	18.85	225	11.61	237	34.90	272	32.0	304	17.45	322	344
5	Black Smith - I Class	209	19.13	228	11.77	240	35.34	275	32.35	307	17.65	325	347
6	Black Smith - II Class	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
7	Bell Boy	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233

Sl. No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (Rs.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
8	Barber	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
9	Bromide Painter	209	19.13	228	11.77	240	35.34	275	32.35	307	17.65	325	347
10	Binder	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
11	Carpenter - I Class	209	19.13	228	11.77	240	35.34	275	32.35	307	17.65	325	347
12	Carpenter - II Class	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
13	Cartman	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
14	Conductor	172	15.74	188	9.17	198	29.15	227	26.71	254	14.57	268	286
15	Cook/ Buttlar	182	16.66	199	10.27	209	30.77	240	28.24	268	15.40	284	303
16	Assistant Cook	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
17	Casual Labourer	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
18	Normal Labourer	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
19	Cleaner	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
20	Casual Deikand	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
21	Casual Water Taper	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
22	Carthire Charges for Bringing Kosha Girls	101	9.24	110	5.68	160	17.08	133	15.65	149	8.53	157	168
23	Compositor	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
24	Head Compositor	194	17.76	212	10.94	223	32.83	256	13.12	286	16.43	303	324
25	Cobbler	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
26	Double Bullock Cart (including Bulls and Driver)	179	16.38	195	10.06	205	30.18	235	22.65	263	15.08	278	297

Sl. No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (Rs.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
27	Double Bullock Cart (with Driver for Sanitary Works)	179	16.38	195	10.06	205	30.18	235	22.65	263	15.08	278	297
28	Single Bullock Cart (with Driver for Sanitary Works)	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
29	Driver	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
30	Dhobi	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
31	Duffer	179	16.38	195	10.06	205	30.18	235	22.65	263	15.08	278	297
32	Electrical Assistant	263	24.07	287	14.81	302	44.47	346	40.71	387	22.20	409	437
33	Engine Driver - II Class	269	24.62	294	15.17	209	45.50	354	41.65	396	22.72	418	446
34	Fitter - I & II Class	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
35	Ferro Painter	209	19.13	228	11.77	240	35.34	275	32.35	307	17.65	325	347
36	Gardener	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233
37	Hammer Man	172	15.74	188	9.70	198	29.15	227	26.71	254	14.57	268	286
38	Khalasi	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
39	Luscar	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
40	Laboratory Assistant	209	19.13	228	11.77	240	35.34	275	32.35	307	17.65	325	347
41	Line Operator	194	17.76	212	10.94	223	32.83	256	13.12	286	16.43	303	324
42	Trade Man for Stitching, Mending Cloth items	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
43	Mazdoor	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297

Sl. No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (Rs.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
44	Head Mazdoor	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
45	Boy Mazdoor	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233
46	Mopier Labourer	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233
47	Masalchi	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233
48	Meat Arresper	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
49	Mali	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233
50	Head Mali	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
51	Mason	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
52	Machine Binder (Letter Press)	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
53	Machine Binder (Off-set)	209	19.13	228	11.77	240	35.34	275	32.35	307	17.65	325	347
54	Painter - I Class	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
55	Painter- II Class	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
56	Plumber - I Class	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
57	Plumber - II Class	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
58	Peon	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
59	Record Sorter	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
60	Sarang	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233
61	Swayer	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
62	Stone Cutter I Class	188	17.21	205	10.58	216	31.80	248	29.18	277	15.91	293	313
63	Stone Cutter II	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297

Sl. No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (Rs.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
	Class												
64	Sweeper/ Scavenger/ Sanitary Worker	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
65	Shaving Per Head	18	1.64	20	1.03	21	3.09	24	2.82	27	1.54	28	30
66	Hair Cut with Shaving per Head	54	4.94	59	3.05	62	9.13	71	8.35	79	4.56	84	90
67	Server including meals	101	9.24	110	5.68	116	17.08	133	15.65	149	8.53	157	168
68	Server excluding meals	148	13.54	162	8.36	170	25.03	195	22.94	218	12.51	231	247
69	Section Writer	122	11.16	133	6.86	140	20.61	161	18.94	180	10.33	190	203
70	Skilled Assistant	268	24.53	293	15.12	308	45.35	333	41.53	395	22.65	417	445
71	Tinker - I Class	188	17.21	205	10.58	216	31.08	248	29.18	235	15.91	293	313
72	Tinker - II Class	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
73	Tailor	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
74	Tennis Ground Marker	148	13.54	162	8.36	170	25.03	195	22.94	218	12.51	231	247
75	Tennis Ball Picker	127	11.62	139	7.17	146	21.50	167	19.65	187	10.72	197	210
76	Wooden Man	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
77	Wooden Woman	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
78	Water carrying water boy	139	12.72	152	7.85	160	23.56	184	21.65	206	11.81	218	233
79	Wood	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297

Sl. No	Category of the post to which Daily Wage payable	Rate per day for the year 2009-10 (Rs.)	Increase for the year 2010-11	Rate per day for 2010-11 (Rs.)	Increase for the year 2011-12	Rate per day for 2011-12 (Rs.)	Increase for the year 2012-13	Rate per day for 2012-13 (Rs.)	Increase for the year 2013-14	Rate per day for 2013-14 (Rs.)	Increase for the year 2014-15	Rate per day for 2014-15 (Rs.)	Rate per day fixed for the year 2015-16 (Rs.)
	Cutter												
80	Wireman	179	16.38	195	10.06	205	30.18	235	27.65	263	15.08	278	297
81	Watchman	162	14.83	177	9.14	186	27.39	213	25.06	238	13.67	252	269
82	Wireless Supervisor	268	24.53	293	15.12	308	45.35	353	41.53	395	22.65	417	445
83	Typist	205	18.76	224	11.56	236	34.75	271	13.88	303	17.39	320	342
84	Junior Assistant	205	18.76	224	11.56	236	34.75	271	13.88	303	17.39	320	342
85	Computer Operator/ Data Entry Operator	205	18.76	224	11.56	236	34.75	271	13.88	303	17.39	320	342

54. Taking into consideration the above illustrative cases of some of the employees, engaged by the Government, on daily rated basis and being revised periodically, we wish to state that the factors taken into consideration or the reasons stated by the Central Government or the District Collector, as the case may be, while revising the wages, from time to time, whether a person is employed in an organised or unorganised sector, would remain the same and consequently, decide the living conditions of different classes of persons, whether engaged in organised or unorganised sectors, as the case may be, to meet out the day to day expenditure and basic amenities. The difference in the rates of wages between the persons employed in a salaried structure, revisable

periodically, though not, in strict sense, be applied with the same percentage to those, engaged in unorganised sectors, but it cannot be contended that there will not be any change in the earning or income.

55. The government servants have an expectation of periodical revision. So also, the employees working in Public Sector, Boards, Corporation, Companies owned and controlled by the Government. In respect of Private Limited Companies, it is more on the basis of terms and conditions of the contract, in which, they are governed. But in the case of self-employed or those, engaged in unorganised sectors, revision of wages or salary or in the case of self-employed, though may not be on par with the salaried structure in organised sectors or on the terms and conditions of the contracts in limited companies, still the important factor, Consumer Price Index, the deciding factor, would be the same, for a change in the earning of the self-employed or revision of salary or wage, even in unorganized sectors and that the expectation of a future event, ie., possibility of a change in wage or financial expectation, cannot be ruled out, for the simple reason that nothing has remained static, in this country.

56. As tabulated in the foregoing paragraphs, it should be noted

that Consumer Price Index, Gross Domestic Product and Per Capita Income, have increased. One cannot disown the fact that the percentage of those in unorganized sectors is more than the organised sectors. While that be so, would it be appropriate for the Insurance Companies and Transport Corporations, to contend that there is absolutely no chance of any upward revision in wages or salary of those, employed in unorganised sectors or for that matter in the earnings of self-employed. If the contentions of the Insurance Companies and Transport Corporations have to be accepted, whether the self-employed or those engaged in unorganised sectors, can never have any expectation of an event in future, ie., increase in earnings or wages? With the basic study of the statistics, we are of the considered view that the answer should be a clear 'No'. When the Consumer Price Index is applicable uniformly to rich or raff, it cannot be contended that those who are engaged in unorganized sectors or self-employed, would continue to earn the same income, for years together.

57. For the abovesaid reasons, we are of the considered view that the word, “prospects” should not be read and understood, only in plural sense, meaning thereby, its prospects or an apparent probability of advancement in employment, in organised sectors alone. Narrowing down the meaning of the words, “future prospects” only to the employment



prospects and consequently, more possibility of earning income, only in the case of organised sector and not in unorganised sector or self-employed, would affect the majority and therefore, the meaning of the word, “prospect” used in singular, meaning thereby, expectation, possibility or probability, chances of earning more income in future, depending upon the factors, stated supra, should also be considered.

58. Thus, from the above particulars, extracted supra, it is evident that both the Central and State Governments have periodically revised the minimum wages across the country. It has been raised taking into consideration the Consumer Price Index. In respect of scheduled employments, for skilled, semi-skilled, unskilled, construction workers, labourers, etc., wages, are fixed in various scheduled employments, right from Agarbathi Industry to Woolen Carpet and Shawl weaving machinery.

59. While that be the position in organised sectors, it cannot be contended that insofar as unorganised sectors or self-employed, is concerned, there would not be any revision in the wages or salary or earning. When the minimum wages of an employee in the organised sector, is revised periodically, taking into consideration the Consumer Price Index and Variable Dearness Allowance, the living conditions, then the others, in a unorganised sector may expect more or less the same

wage, and if there are more number of persons, there may be chances of lesser wage, on account of surplus human resources and in such cases, the bargaining power of certain class of employees, depending upon the field, for revision of wages or earning, may be less.

60. If a non-salaried domestic worker sells a piece of any article, which he or she manufactures and if the customer bargains the rate, he or she would immediately reply, as to how much amount, he/she has to spend for buying the basic materials, other materials used, compare the erstwhile travel expenses and the cost of labour. Can anyone in this Country can say that the electricity charges, water charges, rent, fee received by the Government, cost of education, price of commodities, etc., have remained the same, without any change. Cost of tea sold in a ordinary tea stall is the same for any person, whether engaged in organised or unorganised. Contenting inter alia that there would not be any increase in wages or earning for those engaged in unorganised sectors, for years to come, can it be said that he would never take a cup of tea, outside?

61. At this juncture, it should be borne in mind that Consumer Price Index is fixed, taking into consideration that the majority consumers

are from unorganised sectors. Thus, with reference to Gross Domestic Product, Per Capita Income, Consumer Price Index and such other economic factors, determined on the basis of participation and contribution of both organised and unorganised sectors, the classification that those engaged in unorganised sectors, should be totally denied of any addition of income under the head, future prospects, would in our humble view, would affect Article 14 of the Constitution of India. When the majority of persons, in unorganised sectors, also decide the economic factors, stated supra, it would be unjust and unreasonable to contend that there would not any prospect or addition in the earning of those engaged in unorganised sector, forever. If there is addition of Variable Dearness Allowance to the basic wages, in the case of organised sector, depending upon the Consumer Price Index, applicable for a particular period, one would reasonably expect the same factor of variable Dearness Allowance, to be a relevant factor, for determining the variation in the wage in case of unorganised sector also, as Consumer Price Index is common to all, whether engaged in organised or unorganised sector.

62. At this juncture, we deem it fit to consider, what “Dearness Allowance” means? “Dearness Allowance” is a cost of living adjustment allowance paid to Government employees, Public sector employees

(PSU) and pensioners. Dearness Allowance is calculated as a percentage of an Indian's basic salary to mitigate the impact of inflation. Variable Dearness Allowance is always linked to Consumer Price Index. The notifications of Minimum wages by the Central and State Government reflects how much is the Variable Dearness in each field.

63. In the light of what we have tabulated above, judicial notice can also be taken that the cost of labour, whether it is in agricultural field or manufacturing or services, has increased. Thus, focusing on the increase in wages or earning, in almost all the fields of operation, right from agricultural or industrial or manual labourers, tea shop or road side vendor, the Consumer Price Index, being the same to rich or raff and therefore, correspondingly to meet out the living conditions, atleast for providing the basic amenities, like food, shelter and clothing, and not to add up the expenditure towards health, education, certainly, there would be revision of wages or earning, even in unorganised sectors also. Future is the period of time that will come after the present or things that will happen. Having regard to the consistent and periodical revision of wages by the Governments, it cannot be contended by the Insurers or Transport Corporations that a person in unorganised sector, has no future at all, in the matter of revision of wages or earning.

64. In **R.K.Malik's** case (cited supra), the Hon'ble Supreme Court considered the quantum of compensation, payable to the legal representatives of the deceased children, aged between 10 and 18 years. Referring to the inflation, price rise, etc., the Hon'ble Supreme Court, by observing that there would be a future prospects, for the children also, granted a sum of Rs.75,000/- under the head, future prospects, though as on the date of accident, they were children, studying in a school. In **V.Mekala's** case (cited supra), the injured was a student studying in 11th Standard. While determining the monthly income of the injured as Rs.10,000/-, the Hon'ble Supreme Court added 50% of the income, under the head, future prospects. In the recent decision in **Munna Lal Jain's** case (cited supra), the Hon'ble Supreme Court added 50% under the head, future prospects.

65. Thus, from the line of judgments, it could be noticed that the Hon'ble Supreme Court has considered the addition of a quantified sum, under the head, future prospects, in effect, indicating that there is a prospect or chance or possibility of earning more income, after a passage of time, though not periodically, as done in the case of Government or Public Sector Undertakings or Boards or Corporations, Companies owned and controlled by the Government or Limited Companies.

66. We have already extracted the orders of the Chief Labour Commissioner, Ministry of Labour and Employment, Government of India, New Delhi and taken into consideration a sample case, City of Chennai. Wage revision may vary in rural or urban areas or metropolitan cities. At the risk of repetition, as observed earlier, the number of persons, engaged in unorganized sectors, agriculture or industrial, or home based or self-employment, etc., are more in number, than those employed in organised sectors.

67. Income from the organised sector alone, is not the deciding factor, for determining Gross Domestic Product, Consumer Price Index or Per Capita Income. Thus, from a basic study of the factors, taken into consideration by the Governments for revision of wages, to the enumerated categories of employees, one cannot lose sight of the fact that the said factors, would also have an indelible effect on those, engaged in unorganized sectors also. In the light of our discussion and the details considered, we are of the considered view that addition of certain percentage of income under the head, future prospects, has to be done in the case of those engaged in unorganized sector or self-employed also, otherwise, they would be deprived of just compensation. Addition of

income under the head, future prospects, should not be restricted to only salaried persons, with stable jobs.

68. Though it is the case of the Insurance Companies and Transport Corporation that in the case of persons engaged in unorganised sector or salaried or persons, who do not have any permanent job, addition of certain percentage of income, under the head, “future prospects”, to the income drawn, at the time of death, should not be made, for computation loss of dependency compensation, we are not inclined to accept the same, for the reason that the expression “future prospects” should not be confined only to the prospects of the deceased in the career, progress or upgradation of position, in which, he was engaged, prior to death, but the expression “future prospects” should also be extended to the likelihood of increase in wages/salary, earned by either a skilled or semi-skilled person, clerical and others, considering the upward increase in the cost price, inflation and such other factors.

69. Just and reasonable compensation has to be awarded to the legal representatives of the deceased. Few decisions on this aspect are as follows:

(i) In **R.D.Hattangadi v. M/s.Pest Control (India) Pvt. Ltd.**,

reported in **AIR 1995 SC 755**, wherein, the Apex Court held as follows:

"In its very nature whenever a Tribunal or a Court is required to fix the amount of compensation in cases of accident, it involves some guess work, some hypothetical consideration, some amount of sympathy linked with the nature of disability caused. But all the aforesaid elements have to be viewed with objective standards."

(ii) In yet another decision in **Divisonal Controller, KSRTC v. Mahadeva Shetty and another** reported in **(2003) 7 SCC 197**, in Paragraph 12, the Supreme Court held that,

"Broadly speaking, in the case of death the basis of compensation is loss of pecuniary benefits to the dependents of the deceased which includes pecuniary benefits to the dependents of the deceased which includes pecuniary loss, expenses etc. and loss to the estate. The object is to mitigate hardship that has been caused to the legal representatives due to the sudden demise of the deceased in the accident. Compensation awarded should not be inadequate and should neither be unreasonable, excessive, nor deficient. There can be no exact uniform rule for measuring the value of human life and the measure of damage cannot be arrived at by precise mathematical calculation; but amount recoverable depends on broad facts and circumstances of each case. It should neither



be punitive against whom claim is decreed nor should it be a source of profit for the person in whose favour it is awarded."

At Paragraph 15 of the said judgment, the Supreme Court has held that,

"Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of "just" compensation which is the pivotal consideration. Though by use of the expression "which appears to it to be just", a wide discretion is vested in the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness, and non-arbitrariness. If it is not so, it cannot be just."

(iii) In **Nizam Institute of Medical Sciences v. Prasanth S.Dhananka** reported in **(2009) 6 SCC 1 = 2010 ACJ 38 (SC)**, a Hon'ble three-Judge Bench was dealing with a case arising out of the complaint filed under the Consumer Protection Act, 1986. While enhancing the compensation awarded by the National Consumer Disputes Redressal Commission from Rs.15 lakhs to Rs.1 crore, the Hon'ble Bench made the

following observations which can appropriately be applied for deciding the petitions filed under Section 166 of the Act:

“We must emphasise that the court has to strike a balance between the inflated and unreasonable demands of a victim and the equally untenable claim of the opposite party saying that nothing is payable. Sympathy for the victim does not, and should not, come in the way of making a correct assessment, but if a case is made out, the court must not be chary of awarding adequate compensation. The “adequate compensation” that we speak of, must to some extent, be a rule of thumb measure, and as a balance has to be struck, it would be difficult to satisfy all the parties concerned. ...At the same time we often find that a person injured in an accident leaves his family in greater distress vis-à-vis a family in a case of death. In the latter case, the initial shock gives way to a feeling of resignation and acceptance, and in time, compels the family to move on. The case of an injured and disabled person is, however, more pitiable and the feeling of hurt, helplessness, despair and often destitution enures every day. The support that is needed by a severely handicapped person comes at an enormous price, physical, financial and emotional, not only on the victim but even more so on his family and attendants and the stress saps their energy and destroys their equanimity.” (emphasis supplied)

70. Reverting to the case on hand, in some of the appeals before us, the quantum of compensation, awarded under the heads, loss of dependency, loss of consortium, funeral expenses, love and affection, is less. Though the respondents/claimants, in each of the appeals, have not filed any cross-objection or independent appeals, yet on the principles of just compensation and considering the decision in **Nagappa v. Gurudayal Singh and others** reported in **2003 ACJ 12: 2004 (2) TN MAC 398 (SC)**, wherein, the Apex Court has held that the Court/Tribunals can award compensation, more than what is claimed, depending upon the facts and circumstances of each case and exercising powers under Order 41, Rule 33 CPC., we deem it fit to consider the merits of each case. On the aspect of suo-motu enhancement, we deem it fit to consider few decisions,

(i) In **National Insurance Co. Ltd., v. M.Jayagandhi** reported in **2008 (1) TNMAC 177**, on the question as whether in the absence of any Cross Objection, the High Court could *suo moto* enhance the compensation, by exercising power under Order 41, Rule 33 CPC., this Court, at Paragraphs 37 and 38, held as follows:

“37. The question arising for consideration is whether in the absence of any Cross Objection, the Appellate Court could *suo motu* enhance the compensation. The Appellate Court exercising power under Order 41, Rule 33, CPC could enhance the quantum

of compensation even without Cross-Objection. The Courts and Tribunals have a duty to weigh various factors and quantify the amount of compensation which should be just. Reference could be made to the decision of the Supreme Court in *Sheikhupura Trans. Co. Ltd. v. Northern India Transporter's Ins. Co. Ltd.* , 1971 ACJ 206 (SC), wherein it is held that pecuniary loss to the aggrieved party would depend upon data which cannot be ascertained accurately, but must necessarily be an estimate or even partly a conjecture. The general principle is that the pecuniary loss can be ascertained only by balancing, on the one hand, the loss to the Claimants of future pecuniary benefits and on the other any pecuniary advantage which from what-ever sources come to them by reason of the death, *i.e.* the balance of loss and gain to a dependant by the death must be ascertained. The determination of the question of compensation depends on several imponderables. In the assessment of those imponderables, there is likely to be a margin of error. Broadly speaking, in the case of death, the basis of compensation is loss of pecuniary benefits to the dependants of the deceased which includes pecuniary loss, expenses, etc. and loss to estate. Object is to mitigate hardship that has been caused to the legal representatives due to sudden demise of the deceased in the accident. Compensation awarded should not be inadequate and should neither be un-reasonable,

excessive nor deficient.

38. Of course, the Claimants who are widow, minor daughter and mother have not filed any Cross-Objection. Even without a Cross-Objection, questioning the quantum, the Court could *suo motu* enhance compensation under Or. 41, R. 33, CPC. In this context, reference could be made to **1999 ACJ 977 [Karnataka]** wherein it has been held as follows:

“(6) I am in general agreement with the basic proposition of law that has been canvassed by the appellant's learned advocate when he points out that it is a well settled principle that a party who suffers an order or a decree and does not Appeal against it or assail it would normally not be permitted at the hearing of the Appeal to try and take advantage of the situation by asking for enhancement. The issue is not that but really as to whether this situation prescribes an absolute and total bar to the Court granting a relief if in the interest of justice such a relief is an absolute must. One has to view the situation from a rather practical point of view the first of them being with regard to the very poor quality of legal assistance that is usually available in and around the M.A.C.T. and thereafter, the second aspect of the matter being that the status of the parties and their general condition themselves may be such that they are unable to agitate the matter further and the third aspect of the matter which is relevant having regard to the present

case, is the possibility of certain further tragic occurrences such as deaths that may have intervened, all of which may contribute to a situation wherein the Court finds that no Appeal or Cross-Objections have been filed. The essence of doing justice requires that compensation when awarded has got to be reasonable and fair and it has also got to be adequate having regard to the totality of the circumstances. The hearing of the Appeal involves a total review of the case and the Appeal is virtually an extension of the proceedings before the lower Court. The law is well settled with regard to one interesting aspect of the matter, namely, that the Courts do come across a few instances where instead of over-pitching the case before the Trial Court, a very modest amount is claimed and the Tribunals in these circumstances have been wrongly limiting the relief to the amount that has been claimed on the ground that even though the party is entitled to something higher, what was asked for is a lower figure. This Court had occasion to correct these orders and to lay down that the Tribunal is required to pass an order quantifying the compensation correctly irrespective of what has been claimed on the basis of the principle that it is not the amount that is claimed in that matter, insofar as if the Court has to the power to award a lesser amount, that it is equally equipped with the power to award a higher amount. It is that principle which applies with equal force to the Appeal Court and

though I do not dispute that a Court would normally not permit a party to ask for enhancement unless an Appeal or Cross-Objections have been filed but there could be a very small category of cases in which the Court would make an exception, the reason being that the essence of doing justice requires that a Court will not refuse a relief only because of a technical or a procedural bar. I need to amplify here that if the technicalities are upheld, the result would be doing injustice insofar as the party will be left with a compensation lesser than what a fair evaluation entitles the party to. Again, I do not on the basis of the law as enunciated by the Courts in the decisions set out by me above, subscribe to the view that there exists any bar in the way of this Court exercising such powers. The powers do exist under Order 41, Rule 33, Civil Procedure Code and more importantly, such powers can certainly be exercised under section 151, Civil Procedure Code in the interest of justice.”

Applying the above decision, in *Tamil Nadu State Transport Corporation v. Vasantha and Ors.* , 2006 (3) ACJ 1917: 2006 (1) TN MAC 336 Justice Arumuga perumal Adithyan has enhanced compensation, exercising power under Or. 41, R. 33, CPC and Section 151, CPC.”

(ii) In *Tamil Nadu State Transport Corporation v. Saroja and Ors.*, reported in 2008 (1) TNMAC 352, this Court has considered the same

issue and answered as follows:

**“6. On point:**

The learned counsel for the respondents/claimants placing reliance on Order XLI, Rule 33 of C.P.C. and the various decisions emerged thereunder would pray that the compensation might be enhanced even though no cross-objection has been filed by the claimants, whereas the learned counsel for the appellant - Transport Corporation would cite the decision of the Hon'ble Apex Court in ***Oriental Insurance Co. Ltd. v. R. Swaminathan & Ors.*** , 2006 (2) ACC 701 (SC), and develop his arguments to the effect that unless there is a cross objection, the question of enhancing the compensation would not arise. Hence, it is just and necessary to refer to the decision of the Hon'ble Apex Court in ***Oriental Insurance Co. Ltd. v. R. Swaminathan & Ors.*** , 2006 (2)ACC 701 (SC). An excerpt from it would run thus:

“Apparently the first respondent claimant was satisfied with the Tribunal's Award as he did not file any Appeal there against to the High Court. Nonetheless, being aggrieved by the Single Judge's judgment, the claimant filed a Letters Patent Appeal before the Division Bench of the High Court. This Appeal was allowed and by the impugned judgment the High Court has awarded total compensation amounting to Rs.7,44,000/- under different heads with a direction for payment of inte-rest at 18% from the date of Petition. The appellant-Insurance Company is aggrieved thereby and is in Appeal before us.



The issue that arises in this case is, whether the Division Bench of the High Court was justified in increasing the compensation amount beyond the amount awarded by the Tribunal despite the fact that the Award of the Tribunal was not at all challenged by the claimant. The only reason given by the Division Bench of the High Court for doing so is:

“In this connection, we may observe that we are aware of the fact that we are enhancing the compensation even though the injured has not claimed it. But, the question is covered by catena of decisions justifying enhancement of compensation even if cases where the injured has not preferred an Appeal, provided the circumstances of the case warrants the same.”

To say the least, this was a very facial way of interfering with the award when no interference was called for. We called upon the learned Counsel on both sides to show us at least one case (out of the catena of judgments referred to in the impugned judgment) in support of this proposition. Learned counsel frankly confessed that there was none. On the other hand, the learned Counsel for the appellant drew our attention the judgment of this Court in ***Banarsi v. Ram Phal*, 2003 (2) SLT 258: 2003 (9) SCC 606**, which supports the proposition that in an Appeal filed by the defendant laying challenge to the grant a smaller relief, the plaintiff as a respondent cannot seek a higher relief if he had not filed an Appeal on his own or had not taken any cross-objection. In the present Appeal it would appear that the claimant neither

Appealed against the award of compensation passed by the Tribunal, nor filed any cross-objection in the First Appeal filed by the Insurance Company. Thus, we are satisfied that the Division Bench of the High Court wholly erred in increasing the compensation amount beyond the amount awarded by the Tribunal in the Appeal filed by the Insurance Company.”

7. A mere perusal of the excerpt from the said decision would clearly indicate that the Hon'ble Apex Court in that decision has not laid down as a universal rule of interpretation of Order 41, Rule 33 of C.P.C. Taking into consideration, the method and manner in which the Division Bench of this Court in the Letters Patent Appeal, without citing adequate reasons and precedents, enhanced the compensation amount to an extent of Rs. 7,44,000/- with 18% interest from that of Rs. 3,00,000/- awarded by the Single Bench of the same Court, the Hon'ble Apex Court found fault with it.

8. Furthermore, the above excerpt also would reveal that without even relying upon any precedent, the Division Bench of this Court, simply enhanced the compensation and that too to the extent of double that of what the Single Judge of this Court ordered. It is also clear that when the Hon'ble Apex Court wanted a precedent in that regard, the learned counsel for the appellant therein cited only the decision of the Hon'ble Apex Court in ***Banarsi v. Ram Phal*** , 2003 (2) SLT 258: 2003 (9) SCC 606. As such, in the peculiar facts and

circumstances of that case, the Hon'ble Apex Court felt that the power under order 41, Rule 33 of C.P.C. invoked by the High Court and that too in a case where such an enhancement was not at all warranted, looked askance at it. It is therefore explicit that the Hon'ble Apex Court in the cited decision has not laid down the law that even in a fit case, the High Court should not invoke Order 41, Rule 33 of C.P.C. in the absence of filing cross Appeal. Furthermore under Order 41, Rule 33, there are earlier decisions of the Hon'ble Apex Court, which could be cited as under:

(i) *Municipal Board, Mount Abu v. Hari Lal* , 1988 ACJ 281.

(ii) *Dangir v. Madan Mohna* , AIR 1988 SC. 54.

(iii) *M.D. Pallavan Transport Corporation Ltd., v. Kalavathi* , 1998 (1) ACJ 151.

(iv) *State of Punjab v. Bakshish Singh* , 1998 (8) S.C.C. 222.

9. The perusal of the aforesaid Judgments of the Hon'ble Apex Court would clearly highlight that without filing cross Appeal, the respondents in the Appeal could pray for reliefs and that the High Court under Order 41, Rule 33 could grant such reliefs also. This Court in several cases adhering to the aforesaid decisions of the Hon'ble Apex Court held that under Order 41, Rule 33 of C.P.C., this Court could enhance the compensation in appropriate cases. An excerpt from the decision of this Court in *Managing Director, Thanthai Periyar Transport Corp., Villupuram v. Sundari Ammal*

*and four Others* reported in 1999 (2) CTC 560 would run thus:

“Unfortunately, in the instant case, there is no cross-objection. Therefore, it would be essential, in this context, to consider whether this Court has got powers to enhance the amount of compensation, in the event of coming to the conclusion that the award was on the lower side, even though there is no cross-objection by the claimants.

In *Dangir v. Madan Mohan* , AIR 1988 S.C. 54 and *M.D., Pallavan Transport Corporation Ltd., v. Kalavathi* , 1998 (1) A.C.J 151, it is held that this Court has got power to enhance the compensation, even though the claimants had not filed any cross-objection against the award seeking for higher compensation, if this Court finds that the amount awarded by the Tribunal is not just and adequate.

As pointed out by the Apex Court in *State of Punjab v. Bakshish Singh* , 1998 (8) S.C.C. 222, the reading of the provision would make it clear that the Appellate Court has got wide power to do complete justice between the parties and which enables this Court to pass such decree or order as ought to have been passed or as the nature of the case may require notwithstanding that the party in whose favour the power is sought to be exercised has not filed any Appeal or cross-objection.

The Apex Court in *Dhangir v. Madan Mohan*, A.I.R. 1988 S.C. 54, be referring Order 41, Rule 33, would make the following observation:

“The Appellate Court could exercise the power under Rule 33 even if the Appeal is only against a part of the decree of the lower Court. The Appellate Court could exercise that power in favour of all or any of the respondents although such respondent may not have filed any Appeal or objection. The sweep of the power under Rule 33 is wide enough to determine any question not only between the appellant and respondent, but also between respondent and co-respondents. The Appellate Court could pass any decree or order which ought to have been passed in the circumstances of the case. The words ‘as the case may be require’ used in Rule 33, Order 41 have been put in wide terms to enable the Appellate Court to pass any order or decree to meet the ends of Justice. What then should be the constraint? We do not find many, we are giving any liberal interpretation. The rule itself is liberal enough. the only constraints that we could see may be these: That the parties before the lower Court should be there before the Appellate Court. The question raised must properly arise out of judgment of the lower Court. If these two requirements are there, the Appellate Court could consider any objection against any part of the judgment or decree of the lower Court. It is true that the power of the Appellate Court under S. 33 is discretionary. But, it is a proper exercise of judicial discretion to determine all questions urged in order to render complete justice between the parties. The Court should not refuse to exercise that discretion on mere technicalities.”

10. And then the Division Bench of this Court in the decision in *The Managing Director, Annai Sathya Transport Corporation Ltd., Dharmapuri v. Janardhanam and 7 others* , 2000 (2) CTC 272 placing reliance on the decision of the Hon'ble Apex Court held a similar view that without cross Appeal Order 41, Rule 33 of C.P.C. could be invoked in appropriate cases. An excerpt from it would run thus:

“At this stage, learned counsel appearing for the respondent/claimants would submit that the Tribunal has awarded interest only from the date of the Judgment and not from the date of the petition. The learned counsel for the respondents/claimants would submit that even though no Appeal has been filed by the respondents/claimants or no cross-objections have been filed by them, this Court has discretionary power by virtue of Order 41, Rule 33 of Code of Civil Procedure and also in view of the rulings of the Supreme Court in *Dhangir v. Madan Mohan* , AIR 1988 SC 54 to grant the proper relief. Of course, the Apex Court has pointed out in clear and categorical terms and the power conferred under Order 41, Rule 33 on the Appellate Court is discretionary, and then it must be used in proper case using the judicial discretion to render justice. The Apex Court in *United India Insurance Co., Ltd., v. Narendra Pandu-rang Kadam and others* , 1995 (1) SCC 320 has clearly laid down that the rate of interest must be awarded from the date of the petition and not from the date of the Judgment.”

11. Over and above that the decision of the Hon'ble

Three Judges? Bench of the Hon'ble Apex Court, in ***Nagappa v. Gurudayal Singh and others*** , 2003 ACJ 12: 2004 (2) TN MAC 398 (SC), could be cited here. An excerpt from it would run thus:

“Firstly, under the provisions of Motor Vehicles Act, 1988 (hereinafter referred to as ‘the M.V. Act?’), there is no restriction that compensation could be awarded only up to the amount claimed by the claimant. In an appropriate case where from the evidence brought on record if Tribunal/Court considers that claimant is entitled to get more compensation than claimed, the Tribunal may pass such award. Only embargo is - it should be ‘just’ compensation, that is to say, it should be neither arbitrary, fanciful nor unjustifiable from the evidence. This would be clear by reference to the relevant provisions of the M.V. Act. Section 166 provides that an application for compensation arising out of an accident involving the death of, or bodily injury to, persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both, could be made (a) by the person who has sustained the injury; or (b) by the owner of the property; or (c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or (d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be. Under the proviso to subsection (1), all the legal representatives of the deceased who have not joined as the claimants are to be impleaded as

respondents to the application for compensation. Other important part of the said Section is subsection (4) which provides that “the Claims Tribunal shall treat any report of accidents forwarded to it under subsection (6) of Section 158 as an application for compensation under this Act”. Hence, Claims Tribunal in appropriate case can treat the report forwarded to it as an application for compensation even though no such claim is made or no specified amount is claimed.”

(iii) In **Tamil Nadu State Transport Corporation v. Pothumponnu** reported in **2010 (1) CTC 104**, this Court, held as follows:

“17. Notice can be issued to the opposite parties/respondents only in case where their rights are going to be affected by way of variation/reduction. In this case, the claimants are going to be benefited. Hence, no notice is necessary in the appeal. When the Tribunal commits a mistake that too a material mistake, this Court cannot close its eyes and decide the matter mechanically. When the mistake is noticed by this Court, this Court has got power to do away with it, even while dismissing the appeal at the admission stage itself. The presence of the respondent is not a must. When there is a case for admission, the matter can be admitted and notice can be ordered. When there is no case made out for admission, the appeal deserved to be



dismissed. While dismissing, the material irregularity committed by the Tribunal can be set right by awarding suitable amounts to the respondents without notice to them. The presence of the claimants or absence does not make any difference. Even if they are present and they do not bring it to the notice of this Court about the irregularity, this Court can always remedy the same suo motu under Order XLI Rule 33 of the Code of Civil Procedure and Section 173 of the Motor Vehicles Act and invoking Articles 227 of the Constitution of India. Moreover, Sections 163 and 166 are beneficial provisions of the Motor Vehicles Act aimed at consoling and compensating the victims of the accident. This Court's approach should be humane in nature not whittled down by technicalities. The powers of the Court are wide enough to do complete justice.”

71. Reverting to the cases on hand, in C.M.A.No.723 of 2015, as Mr.Sathieseelan, learned counsel for the respondents/claimants himself has come forward to state that the income from the grocery shop be fixed as Rs.6,500/-, the same is accepted. In **State of Haryana v. Jasbir Kaur** reported in **AIR 2003 SC 3696**, the accident had occurred on 03.02.1999. The deceased therein had 4 acres of land. Though no document was filed, the Apex Court fixed the monthly income as Rs.3,000/- and then, computed the compensation. In the case on hand, the accident has occurred on 20.02.2012. The deceased had four acres of land. After

death, there would not be a total loss of income from agriculture, as somebody in the family, may still engage in agricultural activity. Therefore, income from agriculture is not added for the purpose of computation of dependency. Thus, fixing the monthly income as Rs.6,500/-, and considering the escalation of prices, possibility of earning more in future, we deem it fit to add 50% towards future prospects and accordingly, fix the monthly income as Rs.9,750/- (Rs.6,500 + Rs.3,250) for the purpose of computing the loss of dependency, which works out to Rs.14,04,000/- (Rs.9,750 x 12 x 16 x  $\frac{1}{4}$ ). The accident has occurred on 17.11.2012. The income ceiling for the year 2012 is Rs.2,00,000/-. The annual income works out to Rs.1,17,000/-. It is less than the statutory limit for levy of Income-Tax.

72. On the aspect of compensation for pain and suffering, prior to death, during hospitalisation, the same cannot be granted on the principle of *Actio Personalis Moritur-cum-personna*. Some of the case laws decided by various High Courts on this issue are hereunder:

“(i) The plain meaning of the maxim “*Actio Personalis Moritur-cum-personna*” is that “a personal action dies with the parties to the cause of action”. The above said maxim is an invention of English Lawyers. In **AIR 1967 SC 1124 [Girija Nandini Devi v. Bijendra Narain]**, the Supreme Court observed as hereunder,

“The maxim “*Actio Personalis Moritur-cum-personna*” means a personal action dies with the person has a limited application. It operates in a limited class of actions ex delicto such as actions for damages, assault or other personal injuries not causing the death of the party, and in other actions where after the death of the party the relief granted could not be enjoyed or granting it would be nugatory. An action for account is not an action for damages ex delicto, and does not fall with the enumerated classes. Nor is such that the relief claimed being personal could not be enjoyed after death, or granting it would be nugatory”.

(ii) However, the maxim “*Actio Personalis Moritur-cum-personna*” relates only to the personal injury, pain and suffering experienced by the deceased on account of injuries and it cannot be extended to the loss of estate of the deceased. Reference can be had to the decision of this Court in **Thailammai V. A.V.Mallayya Pillai reported in 1975 ACJ 448**, wherein, this Court held that the cause of action in respect of damages to the estate of the deceased survives and it is passed over to the legal representatives/dependants.

(iii) Explaining the maxim “*Actio Personalis Moritur-cum-personna*” and its applicability to the Motor Accident cases with reference to Section 306 of the Indian Succession

Act, the Gujarat High Court in **Jennabai V. Gujarat State Road Transport Corporation [1991 ACJ 585]**, at Paragraph 10, 16 and 18, held as follows:

“10. Tort, frequently, involves a non-pecuniary loss. Even pecuniary loss of the deceased, being personal to him has no proper entitlement to a place in the assessment of the damages which goes to his estate. But for the pecuniary loss suffered by the deceased on account of such injuries, an action would lie or action would survive for the benefit of the estate of the deceased. The claim, on account of loss to the estate of the deceased, would, undoubtedly, survive and would pass over to his heirs or legal representatives. Section 306 of the Indian Succession Act does not exclude right to recover claim on the basis of proprietary right. In a case of personal injuries, arising out of vehicular accident, it may include pecuniary loss as well. This pecuniary loss or any loss which referable to the loss to estate would be a proprietary or right pertaining to property. Therefore, the right to maintain the action or to continue the action for recovery of pecuniary and proprietary loss which are referable or attributable to the loss to the estate, cannot be said to have been taken away by the provisions of Section 306 of the Indian Succession Act. If the provisions of Section 306 of the Indian Succession Act are extended to all causes of action, including those affecting proprietary or property, i.e., to the estate, it would be to stultify to a great extent the provisions of Section 212 (2). If it is stretched to that, it

would be nugatory, which empowers a Hindu, Mohammadan, Buddhist, Sikh, Jain, Indian Christian or Parsi for applying for letters of administration in case of intestacy. Such a construction of section 306 of the Indian Succession Act would raise a direct conflict with the provisions of Order 22, Rule 3(1) of the Civil Procedure Code. Moreover, the liability to pay compensation is created immediately on the occurrence of the accident to the person suffering the injury and must amount to a debt payable to him and pass over to the heirs of the workman on his death and does not abate. Thus, provisions of Section 306 of the Indian Succession Act have no application of such cases. Therefore, the maxim *Actio Personalis Moritur-cum-personna* on which Section 306 of the Indian Succession Act is based, cannot have a blanket applicability in all actions even in a case of personal injuries wherein the damages flow from the head or under the head of loss to the estate. It may be mentioned that in England, the said maxim has been criticised as harsh, unconscionable and unjust. The rightful claim falling in the realm of pecuniary or proprietary or loss to the deceased's estate would survive, which is not personal to the deceased. It may also be mentioned that the words 'personal injury' occurring in Section 306 mean bodily or physical injury as opposed to the injury to the proprietary right. Therefore, a cause of action in respect of injury to the property or loss referable to the deceased's estate flowing from the personal injury would not fall within the exception, but would, undoubtedly,

survive. But, if interpreted otherwise, as held by the Tribunal, would mean unjust enrichment and benefit to the wrongdoer's estate and unjustifiable injury to the estate of the deceased. Unfortunately, the Tribunal has failed to address itself to such a vital and important aspect while considering and examining the provisions of Section 306 of the Indian Succession Act.

16. It is very clear from para 7 of the impugned judgment that the deceased had claimed Rs.2,200/- for Medical expenses and Rs.575/- for Miscellaneous expenses, etc. The claim under such heads would, undoubtedly, fall within the field of loss to the estate. If such amount would not have been spent by the deceased it was to go to the hands of the appellants or legal representatives of the deceased. Likewise, loss of past income awardable to the deceased on account of wrong done to him subject to reasonable expenses which would have been incurred by the deceased for himself would also be a loss to the estate. It can safely be concluded that had the deceased not sustained the injuries, there would not have been loss of income and consequently there would not have been any detrimental effect on the estate of the deceased. If the unfortunate accident had not occurred the income or expenses falling within the head of loss to the estate would have augmented the estate and same would have gone in the hands of the heirs and legal representatives of the deceased. The loss of past income for the period from the date of accident till the

inability on the part of the deceased to earn on account of the injuries, subject to reasonable expenses for himself, would also form a part of estate of the deceased. No doubt, the loss of income occurring after the death of the deceased would not be a loss to the estate. The action for amount of claim which is not attributable to the loss of estate of the deceased could not survive to the appellants. In other words, the heirs and legal representatives of the deceased would not be entitled to and eligible to claim the amount of claim which is not referable to or not attributable to the loss of the estate. Unfortunately, the Tribunal applied the doctrine of *actio personalis moritur cum persona* along with the provisions of Section 306 of the *Indian Succession Act* in respect of the entire claim without taking into account the separate claim under the head of loss to the estate of the deceased, Abdul Karim Musa. This proposition of law, unfortunately, could not be brought to the notice of the Tribunal. With the result, the approach of the Tribunal in so far as it related to the dismissal of the claim in respect of loss to the estate of the deceased cannot be sustained.

18. Incidentally, it may also be mentioned that could inability to compensate under the *Workmen's Compensation Act, 1923*, in case of an employment injury to the workman abate or die on account of demise of the workman unconnected with the employment? Suppose, in a given case, the workman files an application for compensation under Section 3 of the *Workmen's Compensation Act, 1923*, and

during the pendency of the proceedings he dies otherwise than as a result of the employment injuries. Would that right be lost in view of the provisions of Section 306 of the *Indian Succession Act*? If the interpretation made by the Tribunal in the present case is accepted then the liability to compensate him under the *Workmen's Compensation Act, 1923*, would abate. Of course, the language in Section 306 of the *Indian Succession Act*, no doubt, appears to be general. But it is not always that a general import must necessarily receive a general and wide meaning divorced from the material facts of the case. The expression “other personal injuries not causing the death of the party” is preceded by the words, 'defamation, assault' as defined in the *Penal Code*. The words 'other personal injuries..... must, therefore, receive colour from the earlier words and ought to be construed with the words preceding. It is also settled proposition of law that benevolent legislation is required to be construed liberally so as to advance the underlying object and purpose of the provision. It is also well stated that if interpretation of a welfare legislation or any provision of the statute is capable of two constructions, that construction should be preferred which furthers the policy of the Act or provision concerned and which is more beneficiary for the class in whose interest the law has been made.”

(iv) In *V.Mepherston v. Shiv Charan Singh & Ors.*, reported in I(1998) ACC 6, the Delhi High Court, while



testing the correctness of the award passed by the Motor Accident Claims Tribunal, considered as to whether personal damages awarded to the claimant/injured are inheritable or not. In the said case, the death was not due to the accident. The main contention was that the claim for enhancement for general damages after the death of the objector does not survive. Answering the issue, the Court at Paragraph 3, observed as follows:

“3. So far as the contention of Mr.Tarun Johri that claim for damages which was on account of suffering and pain suffered by the deceased, to my mind, it would abet on the death of the injured. But so far as other claims under other heads those would not come to an end on the death of the objector. The right to sue would survive even on the death of the objector. As a matter of fact claim on account of special diet, medicine, conveyance etc., are such which related to the loss of the property, therefore, right to sue would not abet on the death of the objector. It would survive to his legal heirs as held by the High Court of Punjab and Haryana in the case of **Joti Ram & Ors. v. Chaman Lal & Ors.**, AIR 1985 Punjab & Haryana page 2=1 (1986) ACC 550.”

(v) In **Kartar Kaur v. Dayal Singh** reported in II (1999) ACC 372 (DB), one of the issues raised before the Division Bench of Madhya Pradesh High Court was about the continuance of the appeal by the Legal Representatives of

the injures/claimant (sons of the deceased) based on the Doctrine “Actio Personalis Moritur cum Persona”, ie., a personal claim dies with the person (claimant). Answering the issue, at Paragraph 13, the Division Bench held as follows:

“13. In view of the above, we are of the view that where the injured claimant dies as a result of the injuries during the pendency of his claim for compensation, the legal representatives would be entitled to pursue the claim as in case of death caused in an accident by the use of motor vehicle. Where the injured dies his natural death and not because of injuries suffered in motor accident, the legal representatives would be entitled to pursue the claim to the extent as recognised by Section 306 of the Indian Succession Act, that is, the claim on account of loss to the estate of the deceased. Where in a case, the compensation has been awarded to the injured and an appeal is preferred and during the pendency of the appeal, claimant/injured dies, his legal representatives can continue the appeal for enhancement of compensation.”

(vi) A similar issue came up for consideration before the Division Bench of Karnataka High Court in **Sridevi v. Mastak Ahamad** reported in I (2002) ACC 262 (DB). In the above reported judgment, a minor, aged about four years, sustained injures. On the claim made by her father, Rs.72,000/- was awarded. Aggrieved by the inadequacy of

compensation, an appeal was preferred by the injured through her father and during the pendency of the appeal, she died. Legal Representatives were brought on record. It was submitted that the compensation for Medical Expenses, Pain and Suffering, Loss of Amenities and general damages was on the lower side. Following the decision in *V.Mepherston's* case, the Division Bench held that the appeal is abated in so far as the claim for damages for pain and suffering is concerned and on the question of expenses on medicines, special diet, conveyance etc., as the expenses relate to loss of estate, they would not abate.

(vii) Similar view was taken by the Himachal High Court in **Ram Ashari v. H.R.T.C.**, reported in **IV (2005) ACC 379**. At paragraph 6 to 8 of the judgment, it is held as follows:

“6. It is well settled law that an action in torts for claim of compensation for damages on account of injuries suffered by an injured is a right personal to the injured. This right cannot be continued by the legal heirs or legal representatives. It is no doubt true that the legal heirs or the legal representatives can continue the proceedings insofar as they relate to the loss to the estate such as medical expenses, amount spent on treatment etc. However, the claim with regard to pain and suffering, future loss of income and such related matters is an action which is personal to the injured alone and cannot be continued after

his death unless it is proved that the death is the result of the injuries suffered in the accident.

7. A Division Bench of this Court in **Narinder Kaur v. State of H.P., II (1991) ACC 206 = (1991) 2 ACJ 767**, held as follows:

“(8) We have heard the learned counsel for the parties and gone through the records. The principle of *actio personalis moritur cum persona* relates only to the personal or bodily injuries and not to the loss caused to the estate of the deceased by the tort-feasor. In its applicability, the principle stands considerably modified by the provisions of Section 306 of the Indian Succession Act, which clearly lays down that all demands whatsoever and all rights to prosecute or defend any action or special proceedings existing in favour of or against a person at the time of his death survive except causes of action for defamation, assault and other personal injuries not causing death of the party etc., which come to an end with the death of the injured. The loss of the estate is thus not covered by the exceptions contained in Section 306 of the Indian Succession Act. While taking this view, we are fortified by the decisions of the Supreme Court in **Melepurath Sankunni Ezhuthassan v. Thekittil Geopalankutty Nair, 1986 (1) ACJ 440 : AIR 1986 SC 411 : 1986 (2) TAC 216**, and **M.Veerappa v. Evelyn Sequeria, AIR 1988 SC 506**. The claimants as legal representatives of the original claimant were, as such, entitled to be substituted in his place with a view to

continue the proceedings in the case and to have a decision on the claim in respect of the loss caused to the estate of the deceased.”

8. Keeping in view of the settled position of law and the fact that in the present case there is no claim for loss to the estate and the entire claim is based on the personal claim of the deceased Karam Chand, the appeal cannot be continued and prosecuted by the legal representatives.”

(viii) A Full Bench of the Karnataka High Court in **Uttam Kumar (deceased) v. Madhav and another, 2002 ACJ 1828**, had an occasion to consider an appeal filed by the legal representatives of the deceased for enhancement of the compensation. Short facts of the reported case are as follows:

“In an accident that occurred on 07.01.1995, where the Uttam Kumar sustained injuries. He was admitted in the hospital for his treatment and he incurred expenses. He claimed compensation. The Tribunal awarded Rs.36,250/- with costs and interest. Not satisfied with the compensation, he preferred an appeal for an enhancement. Pending disposal of the appeal, he died and his aged parents were brought on record. The Division Bench of the Karnataka High Court found that the cause of action will not survive and Lrs., of the deceased claimant will not be entitled to compensation. However, the Division Bench observed that in view of the amended provisions of the Motor Vehicles Act,

1988 and the decision of the Supreme Court in **Kannamma v. Deputy General Manager, Karnataka State Road Transport Corporation** reported in **1991 ACJ 707 (Karnataka)**, referred this matter to a Larger Bench. The Full Bench which examined the issue with reference to the provisions of the Motor Vehicles Act and Indian Succession Act, 1925 and answered as follows:-

(i) A claim petition presented under Section 110-A of the Motor Vehicles Act, 1939, by the person sustaining bodily injuries in a motor accident, claiming compensation for personal injuries as also for compensation towards expenses, loss of income, etc. (loss to the estate) cannot, on such person's death occurring not as a result or consequence of bodily injuries sustained from a motor accident, be prosecuted by his/her legal representatives; but

(ii) A claim petition presented under Section 110-A of the Motor Vehicles Act, 1939, by the person sustaining bodily injuries in a motor accident, claiming compensation for personal injuries as also for compensation towards expenses, loss of income, etc. (loss to the estate) can, on such person's death occurring as a result or consequence of bodily injuries sustained in the motor accident, be prosecuted by his/her legal representatives only insofar as the claim for compensation in that claim petition relates to loss of estate of the deceased person due to bodily injuries sustained in the motor accident.”

73. In the case on hand, the deceased was survived by wife, son, daughter and parents. At the time of claim, children were aged about 12 and 10 years respectively. In **Rajesh's** case, cited supra, the Hon'ble Supreme Court has awarded Rs.1,00,000/- as compensation under the head, loss of love and affection to each child. Therefore, following the said decision, children are awarded compensation of Rs.1,00,000/- each. Parents are awarded compensation of Rs.50,000/- each. Total compensation awarded under the head, loss of love and affection, is Rs.3,00,000/-. Rs.1,000/- is awarded under the head, damage to clothes and articles. The other amounts are sustained.

74. The Claims Tribunal, after adjudication, has awarded Rs.18,82,600/-. Having regard to the reworking of compensation under various heads, stated supra, the total compensation, due and payable to the legal representatives of the deceased/respondents in C.M.A.No.723 of 2015, is determined as Rs.18,40,000/- and it is apportioned as follows:

Loss of Dependency	: Rs.14,04,000/-
Loss of Love and Affection	: Rs. 3,00,000/-
Loss of Consortium	: Rs. 1,00,000/-
Transportation	: Rs. 10,000/-

Funeral Expenses	: Rs.	25,000/-
Damages to clothes & Articles	: Rs.	1,000/-
		-----
Total	: Rs.	18,40,000/-
		-----

75. In C.M.A.No.3273 of 2014, the legal representatives of the deceased/claimants have produced sufficient evidence to prove that the deceased owned a lorry. Ex.P11 is the Transfer of National Permit in the name of the deceased and he had a driving licence. While that be so, the contention of the appellant-Insurance Company that the Tribunal has erred in accepting the avocation and monthly income of Rs.15,000/-, from operating the lorry, cannot be accepted. On the claim of the legal representatives of the deceased/claimants, to add 50% under the head, future prospects, it is also to be considered, as to whether, there was no possibility of earning any further income from operating the lorry. Still the vehicle can be let out for earning. Unless there is proof of sale of the vehicle, after the accident and that it was not fetching any income, it cannot be said that the family of the bereaved, has lost the entire income in future. However, there could be some reduction. Considering the said aspect, addition of 30% under the head, future prospects, would be reasonable. Therefore, the claim to enhance the percentage to 50% is answered in the negative. But at the same time, the plea of the legal



representatives of the deceased/claimants that the compensation under the heads, consortium of Rs.25,000/-, loss of love and affection of Rs.30,000/- and funeral expenses of Rs.5,000/- is less and therefore, requires to be enhanced.

76. On the aspect of awarding compensation for funeral expenses, in **Rajesh and others Vs. Rajbir Singh and others** reported in **2013(3) CTC 883**, the Hon'ble Supreme Court held as follows:

“21. We may also take judicial notice of the fact that 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, 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/-.”

Therefore, funeral expenses awarded is enhanced to Rs.25,000/-.

77. The issue as to whether, brother and sister of the deceased can maintain a claim petition for compensation has been considered by this Court in **Oriental Insurance Company v. Rangamal** reported in 2011 (1) TCJ 7 = 2011 AAC 1168 and **Managing Director, Tamil Nadu State Transport Corporation Ltd., v. M.Shanthi** reported in 2010 CIJ 374 Mad (2). In the former case, it was the contention of the appellant-Insurance Company that brother/sister is entitled to claim compensation only under 'No Fault Liability'. Following the decisions of the Apex Court in **Gujarat State Road Transport Corporation, Ahmedabad v. Ramanbhai Prabhatbhai and another** reported in 1987 ACJ 561, **Vidya Dhar Dubey and others v. U.P.State Road Transport Corporation** reported in 1997 ACJ 1388, **Oriental Insurance Company Ltd., v. Naresh Chandra Agarwal and others** reported in 2000 ACJ 931, **Govindasamy v. Ravi and others**, reported in 2003 (1) MLJ 253, **Kishan Lal v. Bharosi Lal** reported in II (2003) ACC 225, **Managing Director, K.S.R.T.C., v. Venkataramappa K.S.**, reported in III (2003) ACC 457 (DB), **New India Assurance Co. Ltd., v. Ashwin Vrajlal Rajgor** reported in 2005 ACJ 1618, **A.Manavalagan v. A.Krishnamurthy** reported in I (2005) ACC 304 (DB), this Court held that brother and sister of the deceased are entitled to maintain a claim for loss of estate and accordingly, rejected the said contention. However, in the case on hand, apportionment of

compensation among the claimants, has not been questioned by them. But no compensation is awarded to Sisters, under the head, loss of love and affection. A sum of Rs.50,000/- each, is awarded to the sisters and parents of the deceased. Altogether, a sum of Rs.2,00,000/- is awarded under the head, loss of love and affection.

78. 'Consortium' as per the ***Best v. Samuel Fox*** reported in **1952 AC 716** means, "Duty owned by a wife to her husband and vice versa, companionship, love and affection, comfort, mutual services, sexual intercourse, etc." Consortium is not a pecuniary loss. It is certainly a conventional damage awarded to a widow, who has lost her husband. In ***Rajesh and others v. Rajbir Singh and others*** reported in **2013(3) CTC 883**, the Apex Court, while observing that at least a sum of Rs.1 Lakh has to be awarded to the widow, for loss of consortium, held as follows:

“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 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 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, 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. Hence, we are of the view that it would only be just and reasonable that the Courts award atleast Rupees one lakh for Loss of Consortium.”

Following the same, a sum of Rs.1,00,000/- is awarded as loss of consortium.

79. Now, let us come to the dependency compensation. If 30% is added to the income drawn at the time of death, under the future prospects, then it works out to Rs.19,500/-. The annual income works out to Rs.2,34,000/-. In **Shyamwati Sharma v. Karam Singh** reported in **2010 (12) SCC 378**, the Supreme Court at Paragraphs 8 and 9, held as follows:

“7. The submission of the respondents that the deduction of 30% from the salary is not warranted in view of

the decision in *Sarla Verma*, is not sound. In *Sarla Verma*, the monthly salary of the deceased was only Rs.4004/- and the annual income even after taking note of future prospects was Rs.72072/-. The income was in a range which was exempt from tax, if the permissible deductions were applied. Therefore, this Court did not make any deduction towards income-tax. But this Court made it clear that where the annual income is in the taxable range, appropriate deduction should be made towards tax.

9. In this case as the annual income has been worked out as Rs.2,48,292/-, appropriate deduction has to be made towards income-tax. The rate of income tax is a varying figure, with reference to taxable income after permissible deductions and the year of assessment. The High Court has assessed the deduction as 30% and on the facts, we do not propose to disturb it. We however make it clear that while ascertaining the income of the deceased, any deductions shown in the salary certificate as deductions towards GPF, life insurance premium, repayments of loans etc., should not be excluded from the income. The deduction towards income tax/surcharge alone should be considered to arrive at the net income of the deceased.”

The ratio laid down in *Shyamwati Sharma's* case, is reiterated in *Manasvi Jain v. Delhi Transport Corporation* reported in 2014 (1) TNMAC 647.

80. The accident has occurred on 20.02.2012. For the financial year 2012, 10% of the income has to be deducted towards Income-Tax.

Thus, excluding the ceiling limit of Rs.2,00,000/-, Income-Tax has to be calculated for the remaining amount of Rs.34,000/-, which works out to Rs.3,400/- (10% of Rs.34,000/-). Thus, after deducting Income-Tax, the monthly income to be fixed for the purpose of computing the loss of dependency is Rs.2,30,600/-. There is no quarrel over multiplier '16' applied by the Claims Tribunal. After deducting 1/4<sup>th</sup> towards the personal and living expenses of the deceased, loss of dependency works out to Rs.24,59,733/-. Transportation expenses of Rs.5,000/- is sustained. In addition, a sum of Rs.1000/- is awarded for damages to clothes and articles. After reworking, the total compensation due and payable to the legal representatives of the deceased/respondents in C.M.A.No.3273 of 2014, is Rs.27,90,733/- and it is apportioned as follows:

Loss of Dependency	: Rs.24,59,733/-
Loss of Love and Affection	: Rs. 2,00,000/-
Loss of Consortium	: Rs. 1,00,000/-
Funeral Expenses	: Rs. 25,000/-
Transportation	: Rs. 5,000/-
Damages to clothes & Articles	: Rs. 1,000/-
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Total	: Rs.27,90,733/-
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81. In C.M.A.No.2386 of 2015, upon perusal of Ex.P6, Pay Slip for

the month of April, 2011, produced by the learned counsel for the respondents/claimants, we find that the deceased was a Senior Factory Assistant in Tamil Nadu Co-operative Milk Federation Limited and earned Rs.18,900.40 per month. Out of the said amount, the following deductions have been made by the employer,

CD Amount	: Rs.5,651/-
Provident Fund	: Rs. 780/-
LIC	: Rs. 209/-
Special Provident Fund	: Rs. 70/-
Family Benefit Fund	: Rs. 40/-
Festival Advance	: Rs. 100/-
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Total	: Rs.6,950/-
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82. Out of the deductions, General Provident Fund, Special Provident Fund and Family Benefit Fund were payments made by the deceased and that the same would be refunded in lumpsum, at the time of retirement or death. Premium collected towards LIC premium also would be refunded to the Government servant, on attaining the age of superannuation or at the time of death. Therefore, the deductions made by the employer, under the above heads, in the salary slip, while arriving at net salary, under the above heads, should be added, while determining

the actual monthly income of any salaried servant, as decided by this Court in **The Manager, National Insurance Co., Ltd., v. Padmavathy & 8 others** reported in **2007-2-L.W.182**.

83. The issue as to how, the claims tribunal/ courts should determine the monthly income of the deceased, for the purpose of computing the loss of contribution to the family, has been considered in **National Insurance Co. Ltd., Vs. Indira Srivastava & Others**, reported in **2008 (2) SCC 763**, wherein, the Supreme Court held as follows:

“9. The term 'income' has different connotations for different purposes. A court of law, having regard to the change in societal conditions must consider the question not only having regard to pay packet the employee carries home at the end of the month but also other perks which are beneficial to the members of the entire family. Loss caused to the family on a death of a near and dear one can hardly be compensated on monetary terms.

10. Section 168 of the Act uses the word 'just compensation' which, in our opinion, should be assigned a broad meaning. We cannot, in determining the issue involved in the matter, lose sight of the fact that the private sector companies in place of introducing a pension scheme takes recourse to payment of contributory Provident Fund, Gratuity and other perks to attract the people who are efficient and



hard working. Different offers made to an officer by the employer, same may be either for the benefit of the employee himself or for the benefit of the entire family. If some facilities are being provided whereby the entire family stands to benefit, the same, in our opinion, must be held to be relevant for the purpose of computation of total income on the basis whereof the amount of compensation payable for the death of the kith and kin of the applicants is required to be determined. For the aforementioned purpose, we may notice the elements of pay, paid to the deceased :

"BASIC : 63,400.00  
 CONVEYANCE ALLOWANCE : 12,000.00  
 RENT CO LEASE : 49,200.00  
 BONUS (35% OF BASIC) : 21,840.00  
 TOTAL : 1,45,440.00

In addition to above, his other entitlements were :

Con. to PF 10% Basic Rs. 6,240/- (p.a.)  
 LTA reimbursement Rs. 7,000/- (p.a.)  
 Medical reimbursement Rs. 6,000/- (p.a.)  
 Superannuation 15% of Basic Rs. 9,360/- (p.a.)  
 Gratuity Cont.5.34% of Basic Rs. 3,332/- (p.a.)  
 Medical Policy-self & Family @ Rs.55,000/- (p.a.)  
 Education Scholarship @ Rs.500 Rs.12,000/- (p.a.)

Payable to his two children Directly"

14. The question came for consideration before a learned Single Judge of the Madras High Court in **The Manager, National Insurance Co. Ltd. v. Padmavathy & Ors.**

**[CMA No.114 of 2006 decided on 29.1.2007]**, wherein it was held :

"Income tax, Professional tax which are deducted from the salaried person goes to the coffers of the government under specific head and there is no return. Whereas, the General Provident Fund, Special Provident Fund, L.I.C., Contribution are amounts paid specific heads and the contribution is always repayable to an employee at the time of voluntary retirement, death or for any other reason. Such contribution made by the salaried person are deferred payments and they are savings. The Supreme Court as well as various High Courts have held that the compensation payable under the Motor Vehicles Act is statutory and that the deferred payments made to the employee are contractual. Courts have held that there cannot be any deductions in the statutory compensation, if the Legal Representatives are entitled to lumpsum payment under the contractual liability. If the contributions made by the employee which are otherwise savings from the salary are deducted from the gross income and only the net income is taken for computing the dependancy compensation, then the Legal Representatives of the victim would lose considerable portion of the income. In view of the settled proposition of law, I am of the view, the Tribunal can make only statutory deductions such as Income tax and professional tax and any other contribution, which is not repayable by the employer, from the salary of the deceased person while determining the

monthly income for computing the dependency compensation. Any contribution made by the employee during his life time, form part of the salary and they should be included in the monthly income, while computing the dependency compensation."

15. Similar view was expressed by a learned Single Judge of Andhra Pradesh High Court in **S. Narayanamma & Ors. V. Secretary to Government of India, Ministry of Telecommunications and Ors. [2002 ACC 582]**, holding:

"13. In this background, now we will examine the present deductions made by the tribunal from the salary of the deceased in fixing the monthly contribution of the deceased to his family. The tribunal has not even taken proper care while deducting the amounts from the salary of the deceased, at least the very nature of deductions from the salary of the deceased. My view is that the deductions made by the tribunal from the salary such as recovery of housing loan, vehicle loan, festival advance and other deductions, if any, to the benefit of the estate of the deceased cannot be deducted while computing the net monthly earnings of the deceased. These advances or loans are part of his salary. So far as House Rent Allowance is concerned, it is beneficial to the entire family of the deceased during his tenure, but for his untimely death the claimants are deprived of such benefit which they would have enjoyed if the deceased is alive. On the other hand, allowances, like Travelling Allowance, allowance for newspapers/periodicals, telephone, servant,

club-fee, car maintenance etc., by virtue of his vocation need not be included in the salary while computing the net earnings of the deceased. The finding of the tribunal that the deceased was getting Rs.1,401/- as net income every month is unsustainable as the deductions made towards vehicle loan and other deductions were also taken into consideration while fixing the monthly income of the deceased. The above finding of the tribunal is contrary to the principle of 'just compensation' enunciated by the Supreme Court in the judgment in Helen's case (1 supra). The Supreme Court in **Concord of India Insurance Co. v. Nirmaladevi and Ors., 1980 ACJ 55 (SC)** held that determination of quantum must be liberal and not niggardly since law values life and limb in a free country 'in generous scales'."

.....

19. The amounts, therefore, which were required to be paid to the deceased by his employer by way of perks, should be included for computation of his monthly income as that would have been added to his monthly income by way of contribution to the family as contradistinguished to the ones which were for his benefit. We may, however, hasten to add that from the said amount of income, the statutory amount of tax payable thereupon must be deducted.

20. The term 'income' in P. Ramanatha Aiyar's *Advanced Law Lexicon* (3rd Ed.) has been defined as under:

"The value of any benefit or perquisite whether convertible into money or not, obtained from a company

either by a director or a person who has substantial interest in the company, and any sum paid by such company in respect of any obligation, which but for such payment would have been payable by the director or other person aforesaid, occurring or arising to a person within the State from any profession, trade or calling other than agriculture."

It has also been stated :

'INCOME' signifies 'what comes in' (per Selborne, C., **Jones v. Ogle**, 42 LJ Ch.336). 'It is as large a word as can be used' to denote a person's receipts '(per Jessel, M.R. **Re Huggins**, 51 LJ Ch.938.) income is not confined to receipts from business only and means periodical receipts from one's work, lands, investments, etc. **AIR 1921 Mad 427 (SB). Ref. 124 IC 511 : 1930 MWN 29 : 31 MLW 438 AIR 1930 Mad 626 : 58 MLJ 337.**"

21. If the dictionary meaning of the word 'income' is taken to its logical conclusion, it should include those benefits, either in terms of money or otherwise, which are taken into consideration for the purpose of payment of income-tax or profession tax although some elements thereof may or may not be taxable or would have been otherwise taxable but for the exemption conferred thereupon under the statute.

22. In **N. Sivammal & Ors. v. Managing Director, Pandian Roadways Corporation & Ors.** [(1985) 1 SCC 18], this Court took into consideration the pay packet of the deceased.

23. We may notice that in **T.N. State Transport Corporation Ltd. v. S. Rajapriya & Ors. [(2005) 6 SCC 236]**, this Court held:

"8. The assessment of damages to compensate the dependants is beset with difficulties because from the nature of things, it has to take into account many imponderables e.g. the life expectancy of the deceased and the dependants, the amount that the deceased would have earned during the remainder of his life, the amount that he would have contributed to the dependants during that period, the chances that the deceased may not have lived or the dependants may not live up to the estimated remaining period of their life expectancy, the chances that the deceased might have got better employment or income or might have lost his employment or income together.

9. 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 therefrom 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 years' purchase.

10. Much of the calculation necessarily remains in the realm of hypothesis "and in that region arithmetic is a

good servant but a bad master" since there are so often many imponderables. In every case "it is the overall picture that matters", and the court must try to assess as best as it can the loss suffered."

24. Yet again in **New India Assurance Co. Ltd. v. Charlie & Anr [(2005) 10 SCC 720]**, the same view was reiterated. However, therein although the words 'net income' has been used but the same itself would ordinarily mean gross income minus the statutory deductions. We must also notice that the said decision has been followed in **New India Assurance Co. Ltd. v. Kalpana (Smt.) & Ors. [(2007) 3 SCC 538]**."

84. In **Raghuvir Singh Matolya v. Hari Singh Malviya & Ors.**, reported in **(2009) 15 SCC 363**, the Apex Court, while observing that Dearness Allowance forms part of the income and House Rent Allowance is paid for the benefit of the family members and not for the employee alone, held that dearness allowance and house rent allowance should be included for computation of income of the deceased.

85. Thus, in the case on hand, the calculation has to be made as follows:

Income	: Rs.13,259.40
<u>Addition</u>	

Provident Fund	: Rs.	780.00
LIC	: Rs.	209.00
Special Provident Fund	: Rs.	70.00
Family Benefit Fund	: Rs.	40.00
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Total	: Rs.	14,358.40
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The monthly income of the deceased, works out to Rs.14,358.40, rounded off to Rs.14,360/-. As per the decision in **Rajesh's** case (cited supra), addition of 15% to the income fixed, at the time of death, towards future prospects has to be made. If 15% is added, the monthly income of the deceased works out to Rs.16,514/-.

86. The accident has occurred on 28.07.2011. For the financial year 2011, 10% of the income has to be deducted towards Income-Tax. Thus, excluding the ceiling limit of Rs.1,90,000/-, Income-Tax has to be calculated for the remaining amount of Rs.8,168/-, which works out to Rs.817/- (10% of Rs.8,168/-). Thus, after deducting Income-Tax, the annual income to be fixed for the purpose of computing the loss of dependency is Rs.2,30,600/-.

87. The proper multiplier as per **Sarala Verma's** case, for the age group between 50 and 55 years, is '11'. There are four dependents in this



case. As per **Sarala Verma's** case, if the number of dependents are four. Therefore, deduction towards personal and living expenses should be 1/4<sup>th</sup>. After deducting 1/4<sup>th</sup> towards the personal and living expenses of the deceased and applying '11' multiplier, the dependency compensation works to Rs.16,27,929/- (Rs.2,30,600/- x 11 x 1/4<sup>th</sup>).

88. Compensation of Rs.1,00,000/- awarded under the head, loss of love and affection to the sons and daughters, is less. Claimants are married sons and daughters of the deceased. Hence, this Court is inclined to award Rs.50,000/- each towards loss of love and affection, which comes to Rs.2,00,000/-. Funeral Expenses of Rs.25,000/- is sustained. In addition, compensation of Rs.5,000/- and Rs.1,000/- is awarded for transportation and damages to clothes and articles respectively. After reworking, the total compensation due and payable to the legal representatives of the deceased/respondents in C.M.A.No.2386 of 2015, is Rs.18,58,929/- and it is apportioned as follows:

Loss of Dependency	: Rs.18,58,929/-
Loss of Love and Affection	: Rs. 2,00,000/-
Funeral Expenses	: Rs. 25,000/-
Transportation	: Rs. 5,000/-
Damages to clothes & Articles	: Rs. 1,000/-

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Total : Rs.18,58,929/-  
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89. C.M.A.No.723 of 2015, is partly allowed. Subsequent to the above, there shall be a reduction of Rs.42,600/-. Record of proceedings shows that on 08.04.2015, this Court, in M.P.No.1 of 2015, granted interim stay of the operation of the impugned judgment in M.C.O.P.No.253 of 2014, dated 10.09.2014, on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri, subject to the condition that the appellant-Insurance Company deposits 75% of the award amount. Therefore, the appellant-Insurance Company is directed to deposit the balance amount, with proportionate interest, at the rate of 7.5% from the date of claim, till payment, to the credit of M.C.O.P.No.253 of 2014, on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri, within a period of four weeks, from the date of receipt of a copy of this order.

90. C.M.A.No.3273 of 2015 is dismissed. Subsequent to the above, there shall be an increase of compensation of Rs.2,29,733/-. Record of proceedings shows that on 26.11.2014, this Court, in M.P.No.1 of 2014, granted interim stay of the operation of the impugned judgment

in M.C.O.P.No.549 of 2012, dated 31.10.2013, on the file of the Motor Accident Claims Tribunal, Additional District Court, Dharmapuri, subject to the condition that the appellant-Insurance Company deposits 75% of the award amount. Therefore, the appellant-Insurance Company is directed to deposit the balance amount, with proportionate interest, at the rate of 7.5% from the date of claim, till payment, to the credit of M.C.O.P.No.549 of 2012, on the file of the Motor Accident Claims Tribunal, Additional District Court, Dharmapuri, within a period of four weeks, from the date of receipt of a copy of this order.

91. C.M.A.No.2386 of 2015 is dismissed. Subsequent to the above, there shall be an increase of compensation of Rs.2,48,929/-. Therefore, the appellant-Insurance Company is directed to deposit the amount, now determined by this Court, with proportionate interest, at the rate of 7.5% from the date of claim, till payment, to the credit of M.C.O.P.No.4193 of 2011, on the file of the Motor Accidents Claims Tribunal, (2<sup>nd</sup> Court of Small Causes), Chennai, within a period of four weeks, from the date of receipt of a copy of this order.

92. In each of the claim petitions, the compensation claimed is only Rs.15,00,000/-. As the award amount in each case is more than the amount claimed, the claimants in each petition, have to pay necessary

Court Fee. Registry is directed to draft the decrees, on payment of necessary Court Fees, for the amount awarded by this Court, less the Court Fee already paid in the respective Claims Tribunals, for the claim amount. Time for payment of Court Fee, is four weeks, from the date of receipt of the copy of this order. If necessary Court Fee is paid earlier, Registry may draft the decree, at the earliest.

93. With the above directions, the Civil Miscellaneous Appeals are disposed of, as indicated in the forgoing paragraphs. Consequently, all the Miscellaneous Petitions are closed. No costs.

Index : Yes/No  
Internet : Yes/No

(S.M.K.,J.) (M.V.,J.)  
13.10.2015

skm

To

1. The Motor Accidents Claims Tribunal,  
(Additional District Court), Dharmapuri.

2. The Motor Accidents Claims Tribunal,  
(Special District Court), Dharmapuri.
3. The Motor Accidents Claims Tribunal,  
(2<sup>nd</sup> Court of Small Causes), Chennai.

S.MANIKUMAR, J.  
AND  
M.VENUGOPAL, J.

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C.M.A.No.3273 of 2014  
M.P.Nos.1 of 2014 and 1 of 2015  
C.M.A.No.723 of 2015  
M.P.Nos.1 and 2 of 2015  
C.M.A.No.2386 of 2015

**M.P.Nos.1 and 2 of 2015**

**13.10.2015**