

A NEW INDIA ASSURANCE CO. LTD.

v.

GOPALI & ORS.

(Civil Appeal No. 5179 of 2012)

JULY 05, 2012

B

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

**MOTOR VEHICLES ACT, 1988:**

C

*s.166 - Motor accident - Death of victim - Claim for compensation - Computation of income of deceased - Consideration of increase in income - Held: High Court was justified in determining the amount of compensation by granting 100% increase in the income of the deceased - In the normal course, the deceased would have served for 22 years and during that period his salary would have certainly doubled because the employer was paying 20% of his salary as bonus per year - Insurer's challenge to the impugned order is meritless.*

D

E

*Motor accident - Death of victim - Compensation - Deduction towards personal expenses - Held: Single Judge of the High Court did not commit any error by not following the rule of 1/3rd deduction towards the personal expenses of the deceased - In the instant case, the deceased had 8 dependents including four sons and one daughter - Where the family of the deceased comprised of 5 persons or more having an income of Rs.3,000/- to Rs.5,000/-, it is virtually impossible for him to spend more than 1/10th of the total income upon himself.*

F

G

*Motor accident - Compensation - Multiplier - Deceased aged about 36 years - Held: Tribunal and High Court were*

H

*not right in applying the multiplier of 10 - They should have adopted the multiplier of 15 for the purpose of determining the amount of compensation - This is a fit case in which the Court should exercise power under Art. 142 of the Constitution and enhance the compensation determined by High Court, by applying appropriate multiplier - With a view to do complete justice to the claimants, the amount of compensation is redetermined by applying the multiplier of 15 and accordingly, the claimants are entitled to a total amount of Rs.10,63,040/-, as detailed in the judgment - The claimants shall also get interest on the enhanced compensation at the rate of 12% per annum from the date of filing the claim petition - Interest - Constitution of India, 1950 - Article 142.*

**COSTS:**

*Payment of compensation delayed - Compensation awarded by Tribunal enhanced by single Judge of High Court, confirmed by Division Bench of High Court - Held: Since the insurer had enjoyed the ex-parte interim order passed by Supreme Court for a period of five years, it is directed to pay cost of Rs.5 lakhs to the claimants.*

**ADMINISTRATION OF JUSTICE:**

*Appeal by insurer challenging the compensation awarded by Tribunal, enhanced by single Judge of High Court and confirmed by Division Bench of High Court - Ex-parte interim order - Court expressed its concern with regard to the ex-parte interim order continuing to operate for years together without the matter being listed for effective hearing - Interim order - Ex-parte interim order - Practice and procedure.*

**Santosh Devi v. National Insurance Company Ltd. and others 2012(3) SCR 1178 - relied on**

**General Manager, Kerala State Road Transport**

A *Corporation v. Susamma Thomas* (1994) 2 SCC 176; *Sarla Verma v. Delhi Transport Corporation* 2009 (5) SCR 1098 = (2009) 6 SCC 121; *U.P.SRTC v. Trilok Chandra* (1996) 4 SCC 362 and *Fakeerappa v. Karnataka Cement Pipe Factory* 2004 (2) SCR 369 = (2004) 2 SCC 473 - referred to.

B

**Case Law Reference:**

	(1994) 2 SCC 176	referred to	para 7
	2009 (5) SCR 1098	referred to	para 14
C	(1996) 4 SCC 362	referred to	para 15
	2004 (2) SCR 369	referred to	para 15
	2012(3) SCR 1178	relied on	para 16

D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5179 of 2012.

From the Judgment & Order dated 22.03.2007 of the High Court of Judicature at Rajasthan at Jaipur Bench, Jaipur in D.B. Special Appeal No. 49 of 2005.

E

Nikunj Dayal, Pramod Dayal for the Appellant.

The Order of the Court was delivered

F

**ORDER**

1. Leave granted.

G

2. India is acclaimed for achieving a flourishing constitutional order, an inventive and activist judiciary, aided by a proficient bar and supported by the State. However, the Courts and Tribunals, which the citizens are expected to approach for redressal of their grievance and protection of their fundamental, constitutional and legal rights, are beset with the problems of delays and costs. In a country where 36 per cent

H

of the population live below the poverty line, these deficiencies A  
in the justice delivery system prevent a large segment of the  
population from availing legal remedies. The disadvantaged  
and poor are deprived of access to justice because of the costs  
of litigation, both in terms of actual expenses and lost B  
opportunities, and the laudable goal of securing justice - social,  
economic and political enshrined in the Preamble to the  
Constitution of India remains an illusion for them. The  
infrastructure of Courts and the processes which govern them  
are simply inaccessible to the poor. The State, which has been C  
mandated by Article 39A of the Constitution to ensure that the  
operation of the legal system promotes justice by providing free  
legal aid and that opportunities for securing justice are not  
denied to any citizen by reason of economic or other  
disabilities, has not been able to create an effective mechanism D  
for making justice accessible to the poor, downtrodden and  
disadvantaged. In last two and a half decades the institution of  
the legal services authorities has rendered yeoman's service  
in the field of providing legal aid to the poor but a lot is required  
to be done for ensuring justice to economically deprived section E  
of the society and those who suffer from other disabilities like  
illiteracy and ignorance.

3. We have prefaced the disposal of this petition, filed  
against order dated 22.3.2007 passed by the Division Bench  
of the Rajasthan High Court whereby the special appeal filed F  
by the appellant against the judgment of the learned Single  
Judge was dismissed as not maintainable, by making the  
aforementioned observations because in last almost 20 years  
the claimants - the aged parents, wife and five children of Nanag G  
Ram, who became a victim of road accident in 1992, must  
have exhausted all their resources in prosecuting and contesting  
the litigation till the stage of High Court and they must not have  
been left with money sufficient for engaging an advocate in this  
Court and also because in last almost five years, during which H

A the special leave petition remained pending in this Court, they must have lost all hopes to get justice. The learned Single Judge of the High Court had allowed the appeal filed by the dependants of Nanag Ram under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') and enhanced the  
B compensation awarded by Motor Accident Claims Tribunal, Jaipur (for short, 'the Tribunal') by an amount of Rs.4,85,000/- and directed the appellant to pay the enhanced compensation with interest at the rate of 12 per cent per annum from the date of filing the claim petition till 31.12.2000 and at the rate of 9  
C per cent from 1.1.2001 till the payment thereof, but on account of ex-parte interim order passed by this Court on 23.7.2007, the claimants could get a paltry sum of Rs. 2 lakhs and they perhaps thought that it will not be worthwhile to spend money for contesting the special leave petition filed by the appellant.  
D This is perhaps the thinking of many thousands of poor litigants, who succeed in the Courts below and the High Courts but cannot afford the cost and expenses of contesting litigation in the highest Court of the country and suffer silently in the name of the Almighty God by treating it as their destiny.  
E

4. Nanag Ram died in a road accident which occurred on 9.3.1992 when his motorcycle was struck by a truck owned by respondent No.10-Ram Chandra Paliwal and driven by Raghu Nath, whose name was deleted from the array of parties vide  
F order dated 2.4.2009. At the time of accident, Nanag Ram's age was about 36 years and he was employed as a Machine Operator in National Engineering Company Ltd., Jaipur for a salary of Rs.4,000/- per month.

G 5. The dependants of Nanag Ram filed a petition under Section 166 of the Act for award of compensation to the tune of Rs.24 lakhs by alleging that their bread winner had died due to rash and negligent driving of the truck by Shri Raghu Nath. While the owner of the truck and its driver did not file a reply to  
H

contest the claim petition, the appellant raised all possible objections. In the reply filed on behalf of the appellant it was prayed that the claimants be directed to prove whether the driver of the offending vehicle was in the employment of the owner and had a valid and effective driving licence. The appellant also sought a direction to the owner for production of the original insurance policy and, as is usually done in such cases, it claimed that the accident was not caused due to rash and negligent driving of the truck. An alternative plea taken by the appellant was that if an award is passed, the contributory negligence of both the drivers be determined.

6. After considering the pleadings and evidence of the parties, the Tribunal held that the accident was caused due to rash and negligent driving of the truck. The Tribunal also accepted the claimants' assertion that the deceased was employed as a Machine Operator in National Engineering Company, Jaipur. The Tribunal then referred to the evidence produced by the claimants on the issue of monthly income of the deceased and held that it could be taken as Rs.3,000/- per month. After deducting 1/3rd towards personal expenses and applying the multiplier of 10, the Tribunal concluded that the claimants are entitled to total compensation of Rs.2,55,000/- with interest at the rate of 12 per cent per annum w.e.f. 5.9.1992.

7. The learned Single Judge of the High Court took cognizance of the fact that the employer was annually paying bonus to the deceased at the rate of 20 per cent of his salary, referred to the judgment of this Court in *General Manager, Kerala State Road Transport Corporation v. Susamma Thomas* (1994) 2 SCC 176 and held that the claimants are entitled to total compensation of Rs.6,45,300/-. The learned Single Judge made additions of small amounts towards pains and sufferings, loss of love and affection, consortium, security

A and protection and directed the appellant to pay an additional amount of Rs.4,85,000/- with interest at the rate of 12 per cent per annum.

B 8. The special appeal filed by the appellant was dismissed by the Division Bench of the High Court by relying upon Section 100A of the Code of Civil Procedure.

C 9. On 23.7.2007, this Court ordered notice on the special leave petition and indirectly stayed the judgment of the learned Single Judge of the High Court. For the sake of reference that order is extracted below:

"Issue notice.

D Without prejudice to the claims involved, let the petitioner deposit a sum of Rupees three lakhs with the concerned MACT within four weeks from today. A sum of Rupees two lakhs shall be permitted to be withdrawn by the claimant without furnishing security."

E 10. As is the fate of large number of other special leave petitions, this petition was not listed before the Court for next five years for effective hearing and the appellant continued to enjoy the benefit of ex-parte interim order. For the first time, the case was listed before the Registrar on 15.10.2008 i.e. after almost one year and three months of the issue of notice. The Registrar noted that notice has not been served upon respondent Nos. 1 to 8 and 10 and an application has been filed for deleting respondent No. 9 from the array of parties. On F 2.4.2009, the application was allowed by the Chamber Judge. G For next two years and five months, the file of the case did not see the light of the day. On 14.9.2011, the case was listed before the Registrar, who recorded the statement of the appellant's counsel that he does not want to bring on record the legal representatives of respondent Nos. 1 and 3. On H

12.10.2011, the matter was again listed before the Registrar, who directed that the matter be placed before the Chamber Judge. When the matter was listed before the Chamber Judge, he noted that the legal representatives of respondent Nos. 1 and 3 are already on record. It should be a matter of concern for those who are associated with this institution as to why an ex-parte interim order passed by the Court should continue to operate for years together without the matter being listed for effective hearing. If the claimants had been members of economically affluent sections of the society, they would have engaged an eminent advocate and taken steps for hearing of the matter at an early date but, as noted earlier, they do not have the financial capacity and resources to engage any advocate for contesting the special leave petition.

11. We have heard learned counsel for the appellant and carefully perused the record.

12. In our view, the appellant's challenge to the impugned order is meritless and the appeal is liable to be dismissed. We are also convinced that this is a fit case in which the Court should exercise power under Article 142 of the Constitution and enhance the compensation determined by the High Court by applying appropriate multiplier.

13. We shall first consider whether the High Court was justified in not applying the rule of 1/3rd deduction towards personal expenses of the deceased.

14. In *Sarla Verma v. Delhi Transport Corporation* (2009) 6 SCC 121, the two Judge Bench made an endeavor to standardise the parameters for determination of the compensation payable by the insurer and / or the owner of the offending vehicle. While dealing with the issue of deduction towards personal expenses, the Court made the following observations:



A "We have already noticed that the personal and living expenses of the deceased should be deducted from the income, to arrive at the contribution to the dependants. No evidence need be led to show the actual expenses of the deceased. In fact, any evidence in that behalf will be wholly  
 B unverifiable and likely to be unreliable. The claimants will obviously tend to claim that the deceased was very frugal and did not have any expensive habits and was spending virtually the entire income on the family. In some cases, it may be so. No claimant would admit that the deceased  
 C was a spendthrift, even if he was one.

It is also very difficult for the respondents in a claim petition to produce evidence to show that the deceased was spending a considerable part of the income on himself or  
 D that he was contributing only a small part of the income on his family. Therefore, it became necessary to standardise the deductions to be made under the head of personal and living expenses of the deceased. This led to the practice of deducting towards personal and living expenses of the  
 E deceased, one-third of the income if the deceased was married, and one-half (50%) of the income if the deceased was a bachelor. This practice was evolved out of experience, logic and convenience. In fact one-third deduction got statutory recognition under the Second  
 F Schedule to the Act, in respect of claims under Section 163-A of the Motor Vehicles Act, 1988 ("the MV Act", for short). But, such percentage of deduction is not an inflexible rule and offers merely a guideline."

G 15. The Bench then referred to the judgments in *Kerala State Road Transport Corporation v. Susamma Thomas* (1994) 2 SCC 176, *U.P. SRTC v. Trilok Chandra* (1996) 4 SCC 362 and *Fakeerappa v. Karnataka Cement Pipe Factory* (2004) 2 SCC 473 and held:  
 H

"Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in *Trilok Chandra*, the general practice is to apply standardised deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six."

A

B

C

16. The issue was recently considered in *Santosh Devi v. National Insurance Company Ltd. and others* (Civil Appeal No.3723 of 2012 decided on 23.3.2012) and it was observed:

D

"It is also not possible to approve the view taken by the Tribunal which has been reiterated by the High Court albeit without assigning reasons that the deceased would have spent 1/3rd of his total earning, i.e., Rs. 500/-, towards personal expenses. It seems that the Presiding Officer of the Tribunal and the learned Single Judge of the High Court were totally oblivious of the hard realities of the life. It will be impossible for a person whose monthly income is Rs.1,500/- to spend 1/3rd on himself leaving 2/3rd for the family consisting of five persons. Ordinarily, such a person would, at best, spend 1/10th of his income on himself or use that amount as personal expenses and leave the rest for his family."

E

F

G

17. National Sample Survey Report No. 527 on Household Consumer Expenditure in India 2006-07, which has been prepared after conducting thorough research on the subject contains the figures of monthly per capita expenditure (MPCE) for various classes. These are extracted below:

H

Table 5R: Break-up of total monthly per capita consumer expenditure (MPCE) by groups of items for households in different MPCE classes																
All-India	monthly per capita expenditure (Rs.) on item group for households in MPCE class (Rs.)														Rural	
															no. of hhs reporting consumption	
	0 - 235	235 - 270	270 - 320	320 - 365	365 - 410	410 - 455	455 - 510	510 - 580	580 - 690	690 - 890	890 - 1155	1155 & more	all classes	per 1000 hhs	sample hhs	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	
cereals	67.12	76.36	88.88	95.46	96.64	102.97	107.42	114.03	120.46	125.43	129.52	144.23	114.80	986	32847	
gram	0.27	1.04	0.68	0.50	0.68	0.85	0.64	0.88	1.03	1.33	1.73	2.91	1.18	199	7489	
cereal substitutes	0.03	0.06	0.03	0.03	0.05	0.12	0.20	0.21	0.41	0.45	0.83	1.94	0.46	71	2837	
pulses and their products	5.14	8.11	11.62	13.34	14.45	16.95	18.96	20.54	22.68	27.02	31.42	40.18	22.67	973	32383	
milk and milk products	2.86	9.39	8.73	12.07	19.43	27.33	31.27	39.97	52.41	75.89	96.72	151.72	56.23	766	26380	
edible oil	7.85	11.47	15.38	16.82	18.93	21.50	23.16	25.36	27.37	32.01	36.68	44.49	27.22	982	32649	
egg, fish and meat	3.38	6.31	7.44	10.39	13.29	15.00	17.75	19.79	24.31	29.50	38.74	52.13	24.32	616	23272	
vegetables	14.91	20.67	25.39	28.91	30.20	34.50	36.62	40.01	44.79	49.98	56.44	67.88	43.06	986	32826	
fruits: fresh	1.11	1.46	2.01	2.82	3.70	4.18	5.19	6.17	8.99	11.75	16.75	32.28	10.02	773	27530	
fruits: dry	0.04	0.08	0.30	0.81	0.74	1.04	1.14	1.56	1.87	2.69	4.30	8.82	2.45	298	10146	
sugar	3.21	5.06	6.16	7.07	8.10	9.05	10.77	12.04	14.07	17.12	20.61	27.87	14.04	957	31880	
salt	0.69	0.79	0.90	1.00	1.00	1.14	1.14	1.21	1.38	1.51	1.77	1.99	1.34	985	32772	
spices	5.32	7.50	8.30	9.70	10.77	11.63	12.54	13.90	15.28	17.18	20.19	24.27	14.96	985	32761	
beverages, etc.	5.09	7.46	10.29	11.72	14.78	16.27	19.10	22.21	25.79	33.65	46.72	92.60	30.67	982	32800	
<b>total: food</b>	<b>117.01</b>	<b>155.76</b>	<b>186.10</b>	<b>210.63</b>	<b>232.76</b>	<b>262.53</b>	<b>285.92</b>	<b>317.88</b>	<b>360.84</b>	<b>425.50</b>	<b>502.44</b>	<b>693.32</b>	<b>363.42</b>	<b>999</b>	<b>33123</b>	
pan	0.23	0.41	0.96	1.44	1.87	1.65	1.74	1.99	2.92	3.26	4.67	4.43	2.64	305	10407	
tobacco	1.91	3.84	4.80	5.97	5.68	6.05	7.40	8.71	9.02	9.89	11.05	15.17	8.70	618	19528	
intoxicants	1.92	2.28	3.58	3.40	4.91	4.11	4.22	4.53	5.90	6.35	7.77	17.63	6.36	181	6278	
fuel and light	31.32	36.04	35.25	39.35	43.42	47.66	51.54	58.75	65.74	75.82	90.22	123.85	66.07	995	33093	
clothing	15.69	17.42	20.07	23.48	26.64	27.53	32.96	36.54	41.49	49.31	60.54	85.99	42.42	997	33076	
footwear	2.26	2.08	2.14	2.71	3.50	3.62	4.36	5.07	5.98	7.97	10.27	15.73	6.53	972	32368	

H

G

F

E

D

C

B

A

**Table 5R (contd.): Break-up of total monthly per capita consumer expenditure (MPCE) by groups of items for households in different MPCE classes**

All-India	monthly per capita expenditure (Rs.) on item group for households in MPCE class (Rs.)														Rural	
															no. of hhs reporting consumption	
	0 - 235	235 - 270	270 - 320	320 - 365	365 - 410	410 - 455	455 - 510	510 - 580	580 - 690	690 - 890	890 - 1155	1155 & more	all classes	per 1000 hhs	sample hhs	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	
education	1.91	2.14	2.98	5.32	6.07	7.19	8.70	11.03	15.74	24.54	33.70	95.17	22.16	615	21722	
medical-institutional	0.25	0.58	0.80	1.57	4.07	4.14	3.67	4.42	5.40	11.31	24.02	94.38	15.55	127	5076	
medical-non-inst.	5.26	5.63	9.85	11.75	11.90	17.98	19.29	23.94	28.05	42.80	57.93	125.53	36.74	685	23349	
entertainment	0.64	0.69	0.50	0.81	1.71	1.34	2.40	2.34	3.80	4.68	8.76	18.36	4.74	279	11404	
goods for personal care	0.23	0.34	0.24	0.29	0.92	0.59	1.08	1.41	1.44	1.99	2.52	4.61	1.63	153	5460	
toilet articles	5.42	6.32	7.60	9.41	10.25	11.42	12.79	14.49	16.79	20.18	24.61	43.52	17.87	994	32966	
sundry articles	3.98	5.45	5.95	7.14	8.10	9.31	10.38	12.18	14.26	17.12	22.46	31.90	14.65	993	32916	
cons. services excluding conveyance	4.31	5.46	7.29	8.20	9.96	11.85	14.33	16.21	21.56	30.51	48.92	109.15	29.09	968	31867	
conveyance	2.60	4.07	3.26	4.59	7.16	7.57	10.11	12.04	15.42	26.39	44.51	114.97	25.77	754	27051	
rent	0.00	0.00	0.01	0.34	0.23	0.37	0.77	0.65	0.94	2.48	4.31	19.31	3.00	63	2648	
taxes and cesses	0.05	0.09	0.22	0.47	0.38	0.58	0.84	0.90	1.16	1.85	2.74	6.46	1.65	347	13380	
durable goods total	2.45	6.20	4.59	6.45	6.26	7.44	8.54	11.57	15.76	17.77	40.57	138.13	26.18	844	27399	
total: non-food	80.44	99.05	110.10	132.70	153.03	170.40	195.11	226.78	271.40	354.20	499.56	1064.28	331.75	1000	33145	
total expenditure	197.45	254.81	296.20	343.33	385.79	432.93	481.03	544.66	632.23	779.69	1002.01	1757.60	695.16	1000	33146	
clothing: second hand	0.29	1.12	0.36	0.29	0.39	0.40	0.50	0.26	0.21	0.33	0.27	0.19	0.33	69	2761	
footwear: second hand	0.01	0.01	0.00	0.01	0.01	0.01	0.01	0.03	0.02	0.02	0.04	0.03	0.02	8	409	
2 <sup>nd</sup> hand durable goods	0.05	0.05	0.15	0.00	0.01	0.02	0.02	0.05	0.05	0.34	0.94	5.00	0.65	8	305	
estd. no. hhs(00)	19254	27459	57024	72159	107622	118332	146398	170830	242565	259952	186193	200894	1608681			
estd. no. pers(00)	93943	159161	336277	402184	628541	646317	769698	883179	1133508	1197816	799958	733037	7783617			
no. of sample households	228	299	698	1137	1559	1888	2413	3190	4580	6029	4654	6471	33146			
no. of sample persons	1167	1785	4262	6569	9053	10427	13327	16902	23846	29967	21960	25820	165085			

A

B

C

D

E

F

G

H

A

B

C

D

E

F

G

H

Table SU: Break-up of total monthly per capita consumer expenditure (MPCE) by groups of items for households in different MPCE classes															
All-India	monthly per capita expenditure (Rs.) on item group for households in MPCE class (Rs.)													no. of hhs reporting consumption	
	0 - 335	335 - 395	395 - 485	485 - 580	580 - 675	675 - 790	790 - 930	930 - 1100	1100 - 1380	1380 - 1880	1880 - 2540	2540 & more	all classes	per 1000 hhs	sample hhs
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
cereals	72.87	85.96	90.75	99.71	105.84	107.86	114.19	117.79	124.64	131.56	142.38	151.16	118.80	948	29024
gram	0.42	0.47	0.56	0.74	0.94	1.02	1.40	1.73	2.02	2.44	2.55	3.00	1.68	271	8232
cereal substitutes	0.06	0.09	0.20	0.34	0.26	0.44	0.44	0.46	0.52	0.60	0.75	1.02	0.50	88	2256
pulses and their products	12.12	15.17	17.13	20.62	22.74	25.13	27.37	29.24	32.13	36.60	40.93	47.25	30.06	938	28697
milk and milk products	11.25	20.39	25.29	33.76	46.68	57.50	69.83	89.31	107.14	138.01	161.88	235.62	97.49	893	27409
edible oil	14.12	18.39	20.81	23.42	27.76	30.42	33.38	36.21	42.06	46.33	52.12	59.81	37.52	941	28810
egg, fish and meat	6.93	10.97	15.13	19.44	24.33	25.20	29.93	30.71	37.40	41.02	51.46	67.53	34.20	571	17945
vegetables	20.84	27.36	30.75	37.88	39.80	43.50	50.49	54.18	62.46	70.31	77.18	98.71	56.87	943	28884
fruits: fresh	2.63	3.59	4.62	7.01	8.63	10.16	13.03	15.39	21.44	29.66	40.18	71.11	21.97	887	27616
fruits: dry	0.44	0.87	1.31	1.35	1.73	2.54	2.78	3.62	4.81	7.18	13.28	23.46	6.03	419	13278
sugar	7.14	8.67	10.65	11.01	13.41	14.71	16.05	17.94	19.17	20.20	22.76	25.53	17.25	933	28576
salt	0.88	0.96	1.10	1.21	1.37	1.47	1.57	1.68	1.82	1.88	2.03	2.35	1.66	942	28847
spices	7.70	10.20	12.02	13.98	14.97	16.37	17.37	19.08	20.40	21.50	23.75	28.40	18.82	941	28825
beverages, etc.	13.00	16.89	18.39	25.11	29.26	35.05	41.58	50.99	66.57	91.22	126.27	271.33	74.42	997	30485
<b>total: food</b>	<b>170.42</b>	<b>219.98</b>	<b>248.70</b>	<b>295.59</b>	<b>337.73</b>	<b>371.37</b>	<b>419.42</b>	<b>468.31</b>	<b>542.58</b>	<b>638.49</b>	<b>757.51</b>	<b>1086.28</b>	<b>517.25</b>	<b>999</b>	<b>30562</b>
pan	0.72	1.30	1.88	2.66	2.21	2.62	2.78	3.02	3.82	3.66	4.41	4.09	3.12	199	7097
tobacco	3.81	4.36	5.90	8.08	6.78	8.22	8.81	9.26	8.85	10.00	9.92	17.03	9.22	356	10914
intoxicants	1.50	1.69	3.44	4.38	5.16	4.28	5.40	4.49	6.31	7.21	6.73	16.04	6.24	99	3164
fuel and light	38.42	47.01	56.77	64.68	73.68	85.05	92.24	107.32	123.75	143.54	171.36	255.81	117.44	993	30384
clothing	19.05	22.96	28.70	31.85	37.90	43.39	49.12	59.90	67.98	85.86	114.21	188.80	70.25	997	30498
footwear	2.59	3.12	4.21	4.67	5.95	7.22	8.53	10.36	12.49	16.94	23.06	38.19	13.07	985	30137

**Table 5U (contd.): Break-up of total monthly per capita consumer expenditure (MPCE) by groups of items for households in different MPCE classes**

All India	monthly per capita expenditure (Rs.) on item group for households in MPCE class (Rs.)													Urban	
														no: of hhs reporting consumption	
	0 - 335	335 - 395	395 - 485	485 - 580	580 - 675	675 - 790	790 - 930	930 - 1100	1100 - 1380	1380 - 1880	1880 - 2540	2540 & more	all classes	per 1000 hhs	Sample hhs
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
education	5.27	6.35	11.39	13.21	21.68	26.58	38.02	48.73	68.44	110.25	182.02	424.68	91.60	721	22518
medical-institutional	2.34	1.10	2.43	6.17	3.94	8.64	10.39	12.16	16.90	24.35	40.18	128.41	24.35	140	4199
medical-non-inst.	8.69	12.90	18.23	24.15	25.34	34.30	44.93	46.19	55.71	73.29	95.96	167.96	58.23	718	21973
entertainment	0.77	1.60	2.91	4.97	7.14	9.09	12.55	16.06	22.37	32.77	48.10	87.27	24.05	581	19683
goods for personal care	0.22	0.37	0.51	0.59	0.67	1.15	1.41	2.36	2.08	3.30	6.58	10.97	2.88	133	5258
toilet articles	8.77	10.66	12.76	15.53	18.44	21.17	24.14	27.43	32.82	41.09	52.05	72.65	31.82	998	30516
sundry articles	6.18	8.35	9.75	12.27	14.40	16.87	19.41	21.50	26.65	33.32	43.24	63.92	26.09	992	30388
cons. services excluding conveyance	7.04	9.85	13.50	15.78	21.54	29.19	38.73	54.04	75.79	118.46	201.07	447.68	98.57	979	29926
conveyance	4.61	4.88	7.09	10.77	18.12	23.05	29.58	45.66	67.06	103.32	162.52	369.38	81.63	842	26258
rent	3.25	5.98	7.08	12.33	14.33	24.18	32.43	46.06	59.31	91.58	125.05	264.55	66.96	365	10449
taxes and cesses	0.65	1.56	1.96	2.31	3.41	5.00	5.68	7.42	8.76	11.72	18.93	42.49	10.52	521	16087
durable goods total	2.59	3.85	5.71	7.37	9.53	12.40	15.83	20.77	28.46	51.14	96.82	382.12	59.21	818	24981
total: non-food	116.48	147.88	194.23	241.77	290.24	362.40	439.97	542.72	687.55	961.82	1402.21	2982.06	795.25	1000	30583
total expenditure	286.90	367.85	442.94	537.36	627.96	733.77	859.40	1011.04	1230.14	1600.31	2159.72	4068.34	1312.50	1000	30583
clothing: second hand	0.82	0.53	0.39	0.31	0.32	0.34	0.30	0.22	0.17	0.17	0.16	0.09	0.25	3	1587
footwear: second hand	0.02	0.05	0.03	0.02	0.03	0.01	0.03	0.01	0.03	0.03	0.01	0.03	0.02	9	276
2 <sup>nd</sup> hand durable goods	0.00	0.08	0.04	0.08	0.20	0.32	0.23	0.21	0.50	1.08	0.87	6.14	0.92	11	304
imputed rent	50.98	60.83	73.44	91.30	107.16	123.44	143.57	170.39	211.24	284.56	472.82	826.60	245.22	653	20248
estd. no. hhs(00)	6764	9524	23316	37046	38559	46300	58647	62420	78203	82775	58892	75987	578434		
estd. no. pers(00)	36334	59014	138395	195388	207808	228906	275815	275004	324424	312892	209981	219963	2483925		
no. of sample households	265	335	837	1259	1423	1795	2269	2561	3939	5885	4739	5276	30583		
no. of sample persons	1539	2101	4983	6902	7623	9220	11009	11810	17022	23096	16372	15151	126828		

H

G

F

E

D

C

B

A

A 18. Here, we are dealing with a case in which the  
deceased had 8 dependents including four sons and one  
daughter. The question which arises for our consideration is  
whether in 1992 a person having an income of less than  
Rs.3,000/- and a family of 9 could think of spending 1/3rd of  
B his income on himself. On a conservative estimate, it is possible  
to say, he would have spent at least 50% of the income on the  
purchase of foodgrains, milk, etc., and for payment of water,  
electricity and other bills. 25% of the income would have been  
C spent on the education of children which would have included  
school/college fee, cost of books, etc. 15% of the income would  
have been used for meeting other family necessities, like,  
clothes, medical expenses, etc. He would have then been left  
with 10% of his income, a portion of which could be used to  
meet unforeseen contingencies and on the occasion of  
D festivals. In this scenario, any deduction towards personal  
expenses would be unrealistic. In any case, where the family  
of the deceased comprised of 5 persons or more having an  
income of Rs.3,000/- to Rs.5,000/-, it is virtually impossible for  
him to spend more than 1/10th of the total income upon himself.

E 19. What we have observed hereinabove may not apply  
to rich people living in urban areas who can afford to spend a  
substantial amount of their income in clubs, hotels and on drinks  
parties. In those cases, there may be a semblance of  
justification in applying the rule of 1/3rd deduction but it would  
F be wholly unrealistic to universally apply that rule in all cases.

20. On the basis of the above discussion, we hold that the  
learned Single Judge of the High Court did not commit any  
error by not following the rule of 1/3rd deduction towards the  
G personal expenses of the deceased.

21. We are also of the view that the High Court was justified  
in determining the amount of compensation by granting 100%  
increase in the income of the deceased. In the normal course,  
the deceased would have served for 22 years and during that  
H period his salary would have certainly doubled because the

employer was paying 20% of his salary as bonus per year. A

22. The issue which remains to be considered is whether the Tribunal and the High Court committed an error by applying the multiplier of 10.

23. In *Sarla Verma v. Delhi Transport Corporation (supra)*, B  
this Court considered the question relating to selection of  
multiplier, referred to the judgments in *Kerala State Road  
Transport Corporation v. Susamma Thomas (supra)*,  
*U.P.SRTC v. Trilok Chandra (supra)* and the Second Schedule  
appended to the Act and held : C

"We therefore hold that the multiplier to be used should be  
as mentioned in Column (4) of the table above (prepared  
by applying *Susamma Thomas*, *Trilok Chandra* and  
Charlie), which starts with an operative multiplier of 18 (for  
the age groups of 15 to 20 and 21 to 25 years), reduced D  
by one unit for every five years, that is M-17 for 26 to 30  
years, M-16 for 31 to 35 years, M-15 for 36 to 40 years,  
M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then  
reduced by two units for every five years, that is, M-11 for E  
51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65  
years and M-5 for 66 to 70 years."

24. It is not in dispute that at the time of accident, the age  
of the deceased was 36 years. Therefore, the Tribunal and the  
High Court were not right in applying the multiplier of 10. They F  
should have adopted the multiplier of 15 for the purpose of  
determining the amount of compensation.

25. In the result, the appeal is dismissed. However, with a  
view to do complete justice to the claimants, we suo motu re- G  
determine the amount of compensation in the following terms  
by applying the multiplier of 15 and hold that the claimants are  
entitled to a total amount of Rs.10,63,040/-:

Amount of compensation with 12 months  
salary and 15 as multiplier : Rs. 5378 x 12 x 15 = H



A Rs.9,68,040 [Rs.2,689 pm x 2= Rs. 5,378/- pm]

Compensation to Family members  
for loss of love & affection, deprivation  
of protection, social security, etc. : Rs.70,000/-

B Compensation to the widow of the  
deceased for loss of love & affection,  
pains and sufferings, loss of consortium,  
deprivation of protection, social security, etc. : Rs.25,000/

C Total Compensation : Rs.10,63,040

[Rs.9,68,040 + Rs. 70,000 + Rs. 25,000]

D 26. The claimants shall also get interest on the enhanced  
compensation at the rate of 12% per annum from the date of  
filing the claim petition.

E 27. The appellant is directed to pay the enhanced /  
additional compensation and interest to the claimants within a  
period of six weeks by getting a demand draft prepared in the  
name of respondent No.2, that is, the widow of the deceased.  
The latter shall invest 50% of the amount in a fixed deposit of  
three years term in a nationalized bank.

F 28. Since the appellant had enjoyed the ex-parte interim  
order passed by this Court for a period of five years, it is  
directed to pay cost of Rs.5 lakhs to the claimants.

G 29. The appellant shall submit compliance report in the  
Registry of the Rajasthan High Court, Jaipur Bench. The  
Registry shall list the matter before an appropriate Bench for  
perusal of the report. If the Bench finds that the appellant has  
failed to comply with the directions contained in this order, it  
shall initiate proceedings against the officers of the appellant  
under the Contempt of Courts Act, 1971 and also order recovery  
of the amount as arrears of land revenue.

H R.P. Appeal dismissed.