A JIJU KURUVILA & ORS.

v.

KUNJUJAMMA MOHAN & ORS.

(Civil Appeal Nos. 4945-4946 of 2013)

JULY 02, 2013

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

MOTOR VEHICLES ACT, 1988:

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s. 166 - Fatal accident -- Compensation - Deceased employed in US - Date for fixing the rate of exchange - Deduction towards personal expenses - Held: If the claimant files petition claiming compensation in Indian Rupees(INR), D *then date of filing of claim petition is the proper date for fixing the rate of exchange at which foreign currency amount has to be converted into currency of the country (INR) -- Deceased aged 45 years, multiplier of 14 applicable - At the time of death, there being four dependents, 1/4th of total income to* E *be deducted towards personal expenses - Amount of compensation payable to claimants will thus, be Rs.54,49,500/-, besides Rs.2,00,000/- as loss of love and affection to two children and Rs.1,00,000/- towards loss of consortium to the wife, with 12% interest.*

F *s.166 - Fatal accident - Compensation - Propriety of Tribunal and High Court apportioning contributory negligence at 75:25 and 50:50 respectively and awarding compensation accordingly - Held: The evidence of eye-witness, the FIR and the charge-sheet against the driver of offending vehicle,* G *established that he caused the death due to negligent driving -- Therefore, Tribunal and High Court erred in concluding that the accident occurred due to the negligence on the part of the deceased as well.*

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The father of appellant no. 1, while driving a car, met with an accident as a bus coming from the opposite direction hit his car resulting in his death. At that time he was aged about 45 years and was employed in US at a monthly salary of 2500 US Dollar. The wife of deceased, his two minor children and his mother joined as claimants in the petition filed before the Motor Accident Claims Tribunal in April 1990, claiming a total compensation of Rs.57,25,000/. The mother of the deceased died during pendency of the claim petition. The Tribunal assessed the compensation at Rs.18,38,500/-, apportioned the liability for the accident in the ratio of 75.25, between the driver of the bus and the deceased and deducting 25% towards contributory negligence, awarded a sum of Rs.13,80,625/-. The High Court assessed total compensation at Rs.47,09,500/- but apportioned the contributory negligence @50:50 and accordingly awarded Rs.23,45,750/-.

In the instant appeals filed by the claimants and the insurance company, the questions for consideration before the Court were: (i) "Whether the foreign currency amount has to be converted into the currency of the country on the basis of exchange rate as on the date of filing claim petition (April, 1990) or as on the date of determination (May, 1993)"; (ii) Whether there was any contributory negligence on the part of the deceased; and (iii) Whether compensation awarded was just and proper.

Disposing of the appeals, the Court

HELD: 1. In the instant case, the claimants filed the petition in April 1990 and claimed compensation in INR. Such compensation was not claimed in U.S. Dollars. Therefore, in view of the facts and the decision of this Court in *Forasol's* case, the date of filing of the claim petition (April, 1990) is the proper date for fixing the rate of exchange at which foreign currency amount has to be

A converted into currency of the country (INR). The Tribunal and the High Court have rightly fixed the rate of exchange as Rs.17.30 per US Dollar (as was prevailing in April, 1990). [Para 16] [288-E-G]

B *Forasol v. Oil and Natural Gas Commission* 1984 SCR 526=1984 (Suppl.) SCC 263; *Renusagar Power Co. Ltd. v. General Electric Co.* 1993 (3) Suppl. SCR 22 = 1994 Suppl (1) SCC 644 - relied on.

2.1 As regards the contributory negligence, there is C no evidence on record to suggest any negligence on the part of the deceased. The owner of the bus and its driver, who were the first and the third respondents before the Tribunal and High Court, did not deny the allegation that the accident occurred due to rash and D negligent driving on the part of the bus driver. The evidence of PW-3, an independent eye witness accompanying the deceased, the FIR registered u/ss. 279, 337 and 304A IPC and the charge-sheet submitted by the police against the bus driver u/ss. 279, 337 and E 304A IPC specifically show that the bus driver caused the death due to rash and negligent driving. Therefore, the Tribunal and the High Court erred in concluding that the accident occurred due to the negligence on the part of the deceased as well, as the said conclusion was not F based on evidence but based on mere presumption and surmises. [Para 20-23 and 26] [289-D-F, G-H; 290-A-C; 291-B]

2.2 Both the Tribunal and the High Court have accepted that the deceased was working as manager in G U.S.A. and was getting a monthly salary of 2500 U.S. Dollars. The High Court accepted that the deceased, as per conditions of service, could have continued in the employment upto the age of 65 years. On the basis of the annual income and exchange rate of Rs. 17.30 per US H Dollar as applicable in April, 1990, the annual income of

the deceased if converted in Indian currency will be Rs. 5,19,000/- at the time of death. The deceased was 45 years of age, therefore, by applying the multiplier of 14, the amount will be Rs.5,19,000 x 14 = Rs.72,66,000/-. The family of the deceased consisted of 5 persons i.e. deceased himself, wife, two children and his mother. As per the decision of this Court in *Sarla Verma* there being four dependents at the time of death, 1/4th of the total income to be deducted towards personal and living expenses of the deceased, and, as such, the compensation payable to the claimants will be Rs.54,49,500/-. Besides, the claimants are entitled to get Rs.1,00,000/- each towards loss of love and affection to the two children i.e. Rs.2,00,000/-and a sum of Rs.1,00,000/- towards loss of consortium to wife which seems to be reasonable. Therefore, the total amount comes to Rs.57,49,500/-. The claimants are entitled to interest @ 12% from the date of filing of the petition till the date of realisation. The judgment of the High Court and the award of the Tribunal are modified accordingly. [Paras 27, 29-31] [291-C-D, F-H; 292-A-E, F]

Sarla Verma & Ors. .vs. Delhi Transport Corporation & Anr. **2009 (5) SCR 1098 = 2009 (6) SCC 121 - relied on.**

Case Law Reference:

1984 SCR 526	**relied on**	**Para 14**
1993 (3) Suppl. SCR 22	**relied on**	**Para 15**
2009 (5) SCR 1098	**relied on**	**Para 29**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4945-4946 of 2013.

From the Judgment and Order dated 12.04.2007 of the High Court of Kerala at Ernakulam in M.F.A. Nos. 1298 & 1162 of 2001 (D).

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C.A. Nos. 4947 & 4948 of 2013.

C.N. Sree Kumar, Prakash Ranjan Nayak, Reshmita R. Chandraw for the Appellants.

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Manjeet Chawal, A. Raghunath for the Respondents.

The Judgment of the Court was delivered by

SUDHANSU JYOTI MUKHOPADHAYA, J. 1. Delay C condoned. Leave granted.

2. These appeals are directed against the judgment of the Division Bench of the Kerala High Court dated 12th April, 2007 in M.F.A. Nos. 1162 and 1298 of 2001(D) whereby compensation awarded to the claimants by Motor Accident D Claims Tribunal, Kottayam (hereinafter referred to as 'the Tribunal', for short) was enhanced and the liability for the accident was apportioned at the ratio of 50:50.

3. The facts that lead to the present case are as follows:

E On 16th April, 1990, a motor accident took place on K.K. Road, near Pampadi Mavell Store, whereby the car driven by one Joy Kuruvila (deceased) had a head on collision with a bus that came from the opposite direction. Joy Kuruvila sustained serious injuries and died on the way to hospital. His F four dependents, namely, Chinnamma Joy (widow of deceased), Jiju Kuruvila aged 14 years, Jaison Kuruvila aged 11 years (2 minor children of the deceased) and Grace Kuruvila (mother of the deceased) aged 85 years filed a joint application under Section 140 and 166 of the Motor Vehicles Act, 1988 G (hereinafter referred to as, 'the Act'), claiming compensation of Rs.57,25,000/- towards following heads:-

(a) Funeral Expenses Rs. 25,000/-

(b) Compensation for pain and suffering Rs. 1,00,000/-

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(c) Compensation on account of death of the deceased and consequent loss of income to the petitioners	Rs. 54,00,000/-
(d) Compensation for the loss of consortium to the 1st petitioner	Rs. 1,00,000/-
(e) Loss of paternal love, affection and guidance to the 2nd and 3rd petitioners	Rs. 1,00,000/-
	Rs. 57,25,000/-

4. At the time of accident, Joy Kuruvila was about 45 years of age and was working as a Manager in the Freeman Management Corporation, New York Branch in the United State of America for more than nine years and was receiving a monthly salary of 2500 US Dollars equivalent to Rs.43,100/-. He was provided with quarter by the employer and was residing alongwith his wife. Joy Kuruvila used to give Rs.30,000/- per month to his wife for the household expenses and savings after meeting his personal expenses. He was healthy, energetic, otherwise, had longevity of life and could have continued in service upto the age of 65 years as per service conditions i.e. for another 20 years.

5. The 1st claimant is the wife, 2nd and 3rd claimants are the children and the 4th claimant was the mother of the deceased. P.C. Kurian, who was the 3rd respondent, was driving the bus at the time of the accident and 1st respondent, Kunjujamma Mohan was the bus owner. It was alleged that the accident occurred solely due to rash and negligent driving of the bus driver, P.C. Kurian and the vehicle had valid insurance with the Oriental Insurance Co.Ltd.. Based on such facts, the claimants claimed a sum of Rs. 57,25,000/- as compensation with 18% interest and cost.

6. In spite of notice, the bus owner, Kunjujamma Mohan and the driver, P.C. Kurian did not appear before the Tribunal and the High Court and had not denied the allegations.

A 7. The Oriental Insurance Co. Ltd. (hereinafter referred to as , "the Insurance Company") in its written statement, admitted the existence of the valid policy of bus No.KRK-3057 in the name of Kunjujamma Mohan but denied the allegation of rash and negligent driving on the part of the bus driver, P.C. B Kurian in causing the accident. The age, occupation, monthly income of the deceased and the claim of compensation were also disputed. According to the Insurance Company, the accident occurred due to rash and negligent driving of the deceased.

C 8. The evidence consisting of testimony of PW.1 to PW.3 and Ext.-A1 to Ext.-8 and Ext.B1 to B3 were brought on record.

9. During pendency of the claim before the Tribunal, the 4th claimant, Grace Kuruvila, mother of the deceased expired; D the rest of the claimants remained as legal heirs of the deceased. The 2nd and 3rd claimants, children of the deceased, who were minor at the time of filing the claim case attained majority during the pendency of the case and were declared as major.

E 10. The Tribunal after hearing the parties and recording evidence held that the accident was caused due to rash and negligent driving of the bus driver. Considering the contributory negligence on the part of the deceased the Tribunal apportioned the liability for the accident in the ratio of 75:25 F between the driver of the bus and the deceased. It assessed compensation to be Rs. 18,38,500/- and after deducting 25% towards contributory negligence on the part of the deceased, awarded a sum of Rs. 13,80,625/- with 12% interest for payment in favour of the claimants.

G 11. The High Court affirmed the view of the Tribunal regarding rash and negligent driving both on the part of the bus driver and the deceased, but apportioned the contributory negligence @ 50:50 for payment of compensation. The High Court held that the Tribunal wrongly fixed Rs. 10,000/- as the H monthly contribution by the deceased to the family and

observed that even if 1/3rd was deducted towards personal expenses of the deceased, more than 1600 US Dollars could be taken as dependency benefit. However, while determining the compensation, the High Court took the figure of 1500 US Dollars as the dependency benefit. The exchange rate as was prevailing on the date of filing of the claim petition i.e. April, 1990 was taken into consideration based into Ext.-A7 and worked out the contribution to the family was calculated to be Rs. 25,950/- per month. On the basis of such contribution, the High Court assessed the total compensation at Rs. 47,09,500/- and ordered to pay 50% of the amount i.e. Rs. 23,45,750/- with interest in favour of the claimants.

12. The claimants have challenged the determination made by the High Court mainly on the following terms:-

(i) The foreign exchange rate as was prevailing at the time of award i.e. May, 1993, and shown in Ext.-A8, ought to have been taken into consideration for calculation of compensation.

(ii) In absence of any evidence relating to negligence on the part of the deceased and in view of the direct evidence on record, both the Tribunal and the High Court erred in holding that there was negligence on the part of the deceased.

13. In this case, the questions which arise for consideration are:

(i) Whether the foreign currency amount has to be converted into the currency of the country on the basis of exchange rate as on the date of filing claim petition (April, 1990) or as on the date of determination (May, 1993);

(ii) Whether there was any contributory negligence on the part of the deceased, Joy Kuruvila and

(iii) Whether compensation awarded is just and proper.

14. The question as to whether the proper date for fixing

A rate of exchange at which the foreign currency amount is to be converted into the currency of the country, for determination of amount payable to a claimant/plaintiff fell for consideration before this Court in *Forasol v. Oil and Natural Gas Commission*1984 (Suppl.) SCC 263 wherein this Court
B observed as follows:

> "24. In an action to recover an amount payable in a foreign currency, five dates compete for selection by the Court as the proper date for fixing the rate of exchange at which the foreign currency amount has to be converted into the
C currency of the country in which the action has been commenced and decided. These dates are:
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> (1) the date when the amount became due and payable;
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> (2) the date of the commencement of the action;
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D (3) the date of the decree;
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> (4) the date when the Court orders execution to issue; and
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> (5) the date when the decretal amount is paid or realised.
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E 25. In a case where a decree has been passed by the Court in terms of an award made in a foreign currency a sixth date also enters, the competition, namely, the date of the award. The case before us is one in which a decree in terms of such an award has been passed by the Court."

F Taking into consideration the claim as was made in the said case this Court held as follows:

> "70. It would be convenient if we now set out the practice, which according to us, ought to be followed in suits in which
G a sum of money expressed in a foreign currency can legitimately be claimed by the plaintiff and decreed by the court. It is unnecessary for us to categorize the cases in which such a claim can be made and decreed. They have been sufficiently indicated in the English decisions
H referred to by us above. Such instances can, however,

never, be exhausted because the law cannot afford to be static but must constantly develop and progress as the society to which it applies, changes its complexion and old ideologies and concepts are discarded and replaced by new. Suffice it to say that the case with which we are concerned was one which fell in this category. In such a suit, the plaintiff, who has not received the amount due to him in a foreign currency, and, therefore, desires to seek the assistance of the court to recover that amount, has two courses open to him. He can either claim the amount due to him in Indian currency or in the foreign currency in which it was payable. If he chooses the first alternative, he can only sue for that amount as converted into Indian rupees and his prayer in the plaint can only be for a sum in Indian currency. For this purpose, the plaintiff would have to convert the foreign currency amount due to him into Indian rupees. He can do so either at the rate of exchange prevailing on the date when the amount became payable for he was entitled to receive the amount on that date or, at his option, at the rate of exchange prevailing on the date of the filing of the suit because that is the date on which he is seeking the assistance of the court for recovering the amount due to him. In either event, the valuation of the suit for the purposes of court-fees and the pecuniary limit of jurisdiction of the court will be the amount in Indian currency claimed in the suit. The plaintiff may, however, choose the second course open to him and claim in foreign currency the amount due to him. In such a suit, the proper prayer for the plaintiff to make in his plaint would be for a decree that the defendant do pay to him the foreign currency sum claimed in the plaint subject to the permission of the concerned authorities under the Foreign Exchange Regulation Act, 1973, being granted and that in the event of the foreign exchange authorities not granting the requisite permission or the defendant not wanting to make payment in foreign currency even though such permission has been granted or the defendant not making payment

A in foreign currency or in Indian rupees, whether such permission has been granted or not, the defendant do pay to the plaintiff the rupee equivalent of the foreign currency sum claimed at the rate of exchange prevailing on the date of the judgment. For the purposes of court fees and B jurisdiction the plaintiff should, however, value his claim in the suit by converting the foreign currency sum claimed by him into Indian rupees at the rate of exchange prevailing on the date of the filing of the suit or the date nearest or most nearly preceding such date, stating in his plaint what C such rate of exchange is. He should further give an undertaking in the plaint that he would make good the deficiency in the court-fees, if any, if at the date of the judgment, at the rate of exchange then prevailing, the rupee equivalent of the foreign currency sum decreed is higher than that mentioned in the plaint for the purposes of court- D fees and jurisdiction. At the hearing of such a suit, before passing the decree, the court should call upon the plaintiff to prove the rate of exchange prevailing on the date of the judgment or on the date nearest or most nearly preceding the date of the judgment. If necessary, after delivering E judgment on all other issues, the court may stand over the rest of the judgment and the passing of the decree and adjourn the matter to enable the plaintiff to prove such rate of exchange. The decree to be passed by the court should be one which orders the defendant to pay to the plaintiff F the foreign currency sum adjudged by the court subject to the requisite permission of the concerned authorities under the Foreign Exchange Regulation Act, 1973, being granted, and in the event of the foreign exchange authorities not granting the requisite permission or the G defendant not wanting to make payment in foreign currency even though such permission has been granted or the defendant not making payment in foreign currency or in Indian rupees, whether such permission has been granted or not, the equivalent of such foreign currency sum converted into Indian rupees at the rate of exchange H

proved before the court as aforesaid. In the event of the decree being challenged in appeal or other proceedings and such appeal or other proceedings being decided in whole or in part in favour of the plaintiff, the appellate court or the court hearing the application in the other proceedings challenging the decree should follow the same procedure as the trial court for the purpose of ascertaining the rate of exchange prevailing on the date of its appellate decree or of its order on such application or on the date nearest or most nearly preceding the date of such decree or order. If such rate of exchange is different from the rate in the decree which has been challenged, the court should make the necessary modification with respect to the rate of exchange by its appellate decree or final order. In all such cases, execution can only issue for the rupee equivalent specified in the decree, appellate decree or final order, as the case may be. These questions, of course, would not arise if pending appeal or other proceedings adopted by the defendant the decree has been executed or the money thereunder received by the plaintiff."

15. In *Renusagar Power Co. Ltd. v. General Electric Co.* 1994 Suppl (1) SCC 644, similar question came for consideration. In the said case, a foreign award was under consideration and the Arbitral Tribunal awarded the same in U.S. Dollars with interest. In the said case relying on decision of this Court in *Forasol* (supra), it was held as follows:

"143. In accordance with the decision in Forasol case the said amount has to be converted into Indian rupees on the basis of the rupee-dollar exchange rate prevailing at the time of this judgment. As per information supplied by the Reserve Bank of India, the Rupee-Dollar Exchange (Selling) Rate as on October 6, 1993 was Rs 31.53 per dollar.

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146. In the result, C.A. Nos. 71 and 71-A of 1990 and C.A. No. 379 of 1992 are dismissed and the decree passed by the High Court is affirmed with the direction that in terms of the award an amount of US $ 12,333,355.14 is payable by Renusagar to General Electric out of which a sum of US $ 6,289,800.00 has already been paid by Renusagar in discharge of the decretal amount and the balance amount payable by Renusagar under the decree is US $ 6,043,555.14 which amount on conversion in Indian rupees at the rupee-dollar exchange rate of Rs 31.53 per dollar prevalent at the time of this judgment comes to Rs 19,05,53,293.56. Renusagar will be liable to pay future interest @ 18 per cent on this amount of Rs 19,05,53,293.56 from the date of this judgment till payment. The parties are left to bear their own costs."

16. In the present case, admittedly the claimants filed a petition in April, 1990 (affidavit sworn on 24th March, 1990) and claimed compensation in INR i.e. Rs.57,25,000/-. Such compensation was not claimed in U.S. Dollars. For the said reason and in view of the decision of this Court in *Forasol* (supra) as followed in *Renusagar Power Co. Ltd.* (supra), we hold that the date of filing of the claim petition (April, 1990) is the proper date for fixing the rate of exchange at which foreign currency amount has to be converted into currency of the country (INR). The Tribunal and the High Court have rightly relied on Ext.-A7, to fix the rate of exchange as Rs.17.30 (as was prevailing in April, 1990).

17. The second question is relating to contributory negligence of the deceased. According to the claimants, accident occurred due to rash and negligent driving on the part of the bus driver, P.C. Kurian and there was no negligence on the part of the deceased, Joy Kuruvila.

Per contra, according to the Insurance Company, the accident took place due to negligent driving on the part of the deceased, who was in the intoxicated condition. They relied on Ext.-A5, the post-mortem report.

18. Three witnesses, PW.1 to PW.3 deposed before the Tribunal. Parties placed documentary evidence, Ext.A-1 to Ext.A-8, Ext. B1 and B2. On behalf of the claimants, they relied on the oral evidence and documentary evidence to show rash and negligent driving on the part of the bus driver. On behalf of the Insurance Company, the counsel relied on Ext.-B2 'Scene Mahazar' and Ext.-A5, post mortem report to suggest negligence on the part of the deceased.

19. The High Court based on Ext.-B2 'Scene Mahazar' and Ext.-A5, post mortem report held that there was also negligence on the part of the deceased as well.

20. On hearing the parties and perusal of record, the following facts emerge:-

The owner of the vehicle Kunjujamma Mohan and the driver of the bus, P.C. Kurian who were the first and third respondents before the Tribunal and High Court, had not denied the allegation that the accident occurred due to rash and negligent driving on the part of the bus driver.

21. PW-3, an independent eye witness was accompanying the deceased during the journey on the fateful day. He stated that the bus coming from the opposite direction hit the car driven by the deceased and the accident occurred due to rash and negligent driving of the bus driver.

22. Ext.-A1, FIR registered by Pampady Police against the bus driver, P.C. Kurian, under Sections 279, 337 and 304A IPC shows that the accident occurred due to rash and negligent driving on the part of the bus driver. After investigation, the police submitted a charge-sheet (Ext.-A4) against the bus driver under Section 279, 337 and 304A IPC with specific allegation

that the bus driver caused the death of Joy Kuruvila due to rash and negligent driving of the bus on 16th April, 1990 at 4.50P.M. In view of the direct evidence, the Tribunal and the High Court held that the accident was occurred due to rash and negligent driving on the part of the bus driver.

23. There is no evidence on record to suggest any negligence on the part of the deceased. Ext.-B2, 'Scene Mahazar' also does not suggest any rash and negligent driving on the part of the deceased.

24. The mere position of the vehicles after accident, as shown in a Scene Mahazar, cannot give a substantial proof as to the rash and negligent driving on the part of one or the other. When two vehicles coming from opposite directions collide, the position of the vehicles and its direction etc. depends on number of factors like speed of vehicles, intensity of collision, reason for collision, place at which one vehicle hit the other, etc. From the scene of the accident, one may suggest or presume the manner in which the accident caused, but in absence of any direct or corroborative evidence, no conclusion can be drawn as to whether there was negligence on the part of the driver. In absence of such direct or corroborative evidence, the Court cannot give any specific finding about negligence on the part of any individual.

25. Post Mortem report, Ext.-A5 shows the condition of the deceased at the time of death. The said report reflects that the deceased had already taken meal as his stomach was half full and contained rice, vegetables and meat pieces in a fluid with strong smell of spirit.

26. The aforesaid evidence, Ext.-A5 clearly suggests that the deceased had taken liquor but on the basis of the same, no definite finding can be given that the deceased was driving the car rashly and negligently at the time of accident. The mere suspicion based on Ext.-B2, 'Scene Mahazar' and the Ext.-A5, post mortem report cannot take the place of evidence, particularly, when the direct evidence like PW.3, independent

eye-witness, Ext.-A1(FIR), Ext.-A4(charge-sheet) and Ext.-B1(F.I. statement) are on record. A

In view of the aforesaid, we, therefore, hold that the Tribunal and the High Court erred in concluding that the said accident occurred due to the negligence on the part of the deceased as well, as the said conclusion was not based on evidence but based on mere presumption and surmises. B

27. The last question relates to just and proper compensation. Both the Tribunal and the High Court have accepted that the deceased was 45 years of age at the time of accident; he was working as manager, Freeman Management Corporation, New York Branch, U.S.A. and was getting a monthly salary of 2500 U.S. Dollars. The High Court accepted that the deceased, as per conditions of service, could have continued the employment upto the age of 65 years. C D

28. Ext.-A6, is a certificate issued by the employer of deceased, i.e.,Freeman Management Corporation, U.S.A. dated 23rd April, 1990 which shows that his annual salary was 30,000 U.S.Dollars. He was in their employment for 9 years and had an excellent standing and his employment was of a permanent nature. The deceased would have continued in service upto the age of 65 years. Ext.-A6 was attested by Notary Public and counter signed by the Consulate General of India, New York, as per Section 3 of the Diplomatic and Consular Officers(Oaths and Fees) Act, 1948. E

29. On the basis of the aforesaid annual income and exchange rate of Rs. 17.30 per US Dollar as applicable in April, 1990 (Ext.-A7), the annual income of the deceased if converted in Indian currency will be 30,000 x 17.30 = 5,19,000/- at the time of death. The deceased was 45 years of age, therefore, as per decision in *Sarla Verma & Ors. V. Delhi Transport Corporation & Anr.,* (2009) 6 SCC 121, multiplier of 14 shall be applicable. But the High Court and the Tribunal wrongly held that the multiplier of 15 will be applicable. Thus, by applying the multiplier of 14, the amount of compensation

A will be Rs.5,19,000 x 14 = Rs.72,66,000/-. The family of the deceased consisted of 5 persons i.e. deceased himself, wife, two children and his mother. As per the decision of this Court in *Sarla Verma* (supra) there being four dependents at the time of death, 1/4th of the total income to be deducted towards
B personal and living expenses of the deceased. The High Court has also noticed that out of 2,500 US Dollars, the deceased used to spend 500 US Dollars i.e. 1/5th of his income. Therefore, if 1/4th of the total income i.e. Rs. 18,16,500/- is deducted towards personal and living expenses of the
C deceased, the contribution to the family will be (Rs. 72,66,000 - Rs. 18,16,500/- =) Rs.54,49,500/-. Besides the aforesaid compensation, the claimants are entitled to get Rs.1,00,000/- each towards love and affection of the two children i.e. Rs.2,00,000/-and a sum of Rs.1,00,000/- towards loss of consortium to wife which seems to be reasonable. Therefore,
D the total amount comes to Rs.57,49,500/-.

30. The claimants are entitled to get the said amount of compensation alongwith interest @ 12% from the date of filing of the petition till the date of realisation, leaving rest of the
E conditions as mentioned in the award intact.

31. We, accordingly, allow the appeals filed by the claimants and partly allow the appeals preferred by the Insurance Company, so far as it relates to the application of the multiplier is concerned. The impugned judgment dated 12th
F April, 2007 passed by the Division Bench of the Kerala High Court in M.F.A. Nos.1162 and 1298 of 2001 and the award passed by the Tribunal are modified to the extent above. The amount which has already been paid to the claimants shall be adjusted and rest of the amount with interest as ordered above
G be paid within three months. There shall be no separate order as to costs.

R.P. Appeals disposed of.