Canal & Drainage Rules, 1878 (for short, the Rules), they must associate the petitioners in the said enquiry. The enquiries which are alleged to have been conducted were not made known to them. The facts of the present case are not suggestive of the fact that the authorities concerned had followed the procedure indicated above, namely, to have given notice to the persons who are ultimately saddled with the liability and to have afforded them an opportunity of showing cause against the imposition of water charges and penalty.

(13) All matters decided by the Collector under Section 34 are appealable under section 35(2) of the Act. This presupposes that the question mentioned in section 34 has to be decided after affording a reasonable opportunity of hearing to the aggrieved party, and a proper order has to be passed which will be the subject-matter of the appeal before the Commissioner, and revision before the Financial Commissioner, as envisaged by section 35(3) and (4), respectively.

(14) Resultantly, we quash the assessment of *abiana*/water charges and direct the respondent-authorities to proceed in accordance with the provisions of sections 34 and 35 of the Act, keeping in view the observations made by us above. The right of the State to recover *abiana*/water charges is, however, upheld. But the procedure adopted while effecting the recoveries is held to be violative of the principles of natural justice being in breach of the mandatory provisions of section 34, and it is struck down. The authorities will proceed as indicated earlier. The writ petitions are disposed of accordingly. No costs.

R.N.R.

FULL BENCH

Before V. Ramaswami, CJ, Ujagar Singh and G. R. Majithia, JJ.

BIMLA DEVI AND OTHERS,—*Appellants.*

versus

M/S. NATIONAL INSURANCE CO. LTD. AND ANOTHER,
—*Respondents.*

First Appeal From Order No. 518 of 1985

August 4, 1988

Motor Vehicles Act (IV of 1939)—*Ss. 92A, 92B, 110A and 110D—Fatal accident involving children—Assessment of damages—Loss of expectation of life of child—Quantum of compensation—Principles for determination stated.*

Held, that if the age of the deceased child is below 10 years there is not much scope for evaluating the multiplicant exactly but at the same time, the reasonable expectation of pecuniary benefits in the future is not totally ruled out. In our view, it may not be very much correct to proceed to compute mathematically the future damages when the annual dependency is likely to be a pure guess. In 1956, their Lordships of the Supreme Court took Rs. 5,000 as a 'conventional figure', and the same can be upgraded on the basis of inflation. Even on that basis, at least a sum of Rs. 10,000 will be payable for an accident in the late eighties having regard to the inflation between 1956 and 1988.

(Paras 9 and 10).

Held, that the jurisdiction of the Tribunal under the Motor Vehicles Act, 1939 to award just compensation is very wide and comprehensive. However, the element of speculation cannot be ruled out. The determination of compensation would turn upon the particular facts of each case, *viz.*, family environments, the members of the family; the health, the age of the victim, his outlook in life, the interest which the parents were taking in the child and the totality of circumstances tending to show whether the victim had a predominatly happy life or a life of misery or an insipid life. Apart from this, it has also to be taken into consideration whether the child was subject to risks of illness diseases, accident and death. His education and upkeep would have been a substantial burden to the parents for many years if he had lived. He might or might not have turned out a useful youngman. He would have earned nothing till about the age of 16 years. He might not have aided his father at all. He might have proved a mere expense. We cannot adequately speculate one way or the other.

(Para 12)

Held, that in special circumstances, the courts may be justified in awarding higher compensation. There may be peculiar circumstances which might influence the court to reduce or enhance the amount but in other cases where no such special circumstances are shown, a maximum sum of Rs. 5,000 appears to have been awarded as compensation. In view of the fact that the value of money has declined a sum of Rs. 6,000 may be a reasonable figure to be awarded as compensation.

(Para 13)

Held, that in the case of children of tender age the compensation to be awarded is only for the loss of expectation of future happy life which of course, forms a conventional figure and their Lordships of the Supreme Court in C. K. Subramania Iyer's case took Rs. 5,000 as a conventional figure and upheld the decree of the Court. There is no scope for evaluating the multiplicant exactly.

(Para 15).

Held, that after the introduction of Sections 92 A and 92 B by Act No. 47 of 1982 irrespective of the age the minimum statutory

liability has been imposed. In case the Tribunal comes to the conclusion that higher compensation is to be awarded over and above the sum mentioned in sub section 2 of section 92 A he will keep the principles of determining the compensation given in the preceding paras of this judgment. However, to cases of which accident took place prior to October 1, 1982 i.e. before the insertion of Chapter VII A in the particular Act the principles laid down herein will be applied.

(Paras 20 and 23).

1. M/s. Zenith Papers and another *vs.* Gurmeet Kaur and others F.A.O. 38 of 1984 decided on April 6, 1984.

2. K. L. Pasrija *vs.* The Oriental Fire and General Insurance Co. (87) PLR 623.

(Over-ruled)

First Appeal from the order of the Court of Shri N. C. Khichi, Motor Accident Claims Tribunal, Jullandhar dated 27th September, 1984 accepting the claim application of Bimla Devi and Rasila Ram and awarding compensation of Rs. 28,800 to be paid to them in equal shares, with interest at the rate of 10 per cent PA from the date of application i.e. 5th February, 1983 against the respondents and ordering that the amount shall be recoverable from the National Insurance Company Ltd. respondent No. 2, as the amount awarded is covered under policy Ex. R2, issued by respondent No. 2 and leaving the parties to bear their own costs.

L. M. Suri, Advocate, Ravinder with Arora Advocate, *for the Appellants.*

M. B. Singh, Advocate, *for Respondent No.* 1.

R. M. Suri, Advocate, *for Respondent No.* 2.

JUDGMENT

G. R. Majithia, J.

(1) This judgment will dispose of F.A.O. Nos. 518/1985, 765/1985, 487/1986 (including X-objections No. 87-CII/1986), 572/1987, 446/1984 and 566/1984 (including X-objections No. 86-CII/1984 as a common question of law arises in these appeals.

(2) We shall refer to the facts of FAO No. 518/1985 for the purpose of appreciating the matter in controversy and the points arising for adjudication.

(3) A claim petition under the Motor Vehicles Act was filed by the parents and sisters of the deceased child Mange *alias* Manoj, claiming compensation to the tune of Rs. 2,00,000 on account of his untimely death. The Tribunal found that the accident took place due to the rash and negligent driving of the vehicle by the driver as a result of which Mange *alias* Manoj died, and his age at that time was 12 years and he was a student of 5th class. With regard to the quantum of compensation, the learned Tribunal found that the deceased was quite hale and hearty and he used to assist his father, who ran a small tea shop, after the school hours. The Tribunal further held that even if a servant of the age of 12 years is employed at a small tea-stall he has to be paid not less than Rs. 5 per day, and in this situation, the Tribunal found that the deceased was contributing to the earnings of his father to the tune of Rs. 150 per month. Applying the ratio of *Lachhman Singh* vs. *Gurmit Kaur* (1) and a multiplier of sixteen, the total pecuniary loss suffered by the parents of the deceased Mange was held to be Rs. 28,800. The claim of the sisters of the deceased was not accepted since they were not proved to be dependent on the deceased.

(4) The parents and the sisters of the deceased child filed an appeal under Section 110-D of the Motor Vehicles Act in this Court. When the matter came up for motion hearing, it was contended by the counsel for the appellants that a Division Bench of this Court, in (M/s. Zenith Papers and another vs. Gurmeet Kaur and others) (2) had held that a child of one year was capable of sparing Rs. 100 per month for his parents. The Bench felt that the decision in FAO No. 38/1984 (supra) ran counter to the Supreme Court decision, and needed reconsideration by a larger Bench. The appeal was admitted to hearing by the Full Bench and it is in this manner that the matter is before us for decision.

(5) In the appeal, the controversy is confined to only one point, as to the quantum of damages the appellants are entitled to. Negligence on the part of the respondent resulting in the death of Mange *alias* Manoj is not denied and the appellants' version as to the manner in which the boy met his end has not been questioned.

(6) The right to recover damages for having wrongfully caused the death is wholly a statutory one. The basic rule to which the

(1) 1979 ACJ 170.

(2) FAO. 38 of 1984 decided on April 6, 1984.

English statute and the Indian Act, subscribe, is, that the designated beneficiaries are entitled to compensation for a pecuniary or a material loss, resulting from the death of a person, from whom there was a reasonable expectation of a monetary benefit, assistance or support; of which the claimant has been deprived of. In the absence of statutory guidelines, we think that for the purpose of securing uniformity some workable formulae should be evolved which can be usefully followed by the courts after making marginal adjustments in the light of peculiar facts of each individual case.

(7) The law as to the assessment of damages is stated in Halsbury's Laws of England (Third Edition) Vol. 28, thus :—

> "111. *Pecuniary loss must be sustained by claimants.* The pecuniary loss is not limited to the value of money lost, or to the money value of benefits lost (c), but includes the monetary loss incurred by replacing services rendered gratuitously by the deceased (d), if there was a reasonable prospect of their being rendered freely in the future but for the death of the deceased (e), Pecuniary loss may be evidenced by proof of a reasonable expectation of some future pecuniary benefit (f), and it is not necessary that the claimant should have a legal right to such a benefit from the deceased or should have actually received before the death any benefit of the same nature (g).....So, also, account can be taken of a reasonable expectation of pecuniary benefit from services rendered or assistance given by the deceased (s), even if he was a child (t), and even if such services or assistance had not actually commenced at the time of death (u)."

In *Benham* v. *Gambling* (3), the House of Lords had, for the first time, to decide what should be the quantum of damages to be awarded for loss of expectation of life. In that case, a child aged two-and-a half year old was involved in a car accident. The only question was the diminution of the child's expectation of life. Evidence showed that the child was living in modest but otherwise favourable circumstances. At the trial, Asquith, J. fixed the damages at £1,200 as it was neither unreasonably excessive nor unreasonably

(3) (1941) A.C. 157

deficient. Finally, when the matter came up to the House of Lords, Viscount Simon, L.C. posed the question what were the main considerations to be borne in mind in assessing demages under the head of loss of expectation of life, and observed:

> ".....I am of opinion that the right conclusion is not to be reached by applying what may be called the statistical or actuarial test.....And in any case the thing to be valued is not the prospect of length of days, but the prospect of a predominently happy life. The age of the individual may, in some cases, be a relevant factor. The ups and down of life, its pains and sorrows as well as its joys and pleasures all that makes up 'life's fitful fever' have to be allowed for in the estimate. In assessing damages for shortening of life, therefore, such damages should not be calculated solely, or even mainly, on the basis of the length of life which is lost....."

The noble Lord thought that in the case of a very young child, there was uncertainty about the future, that happiness did not depend on wealth or status and it would be an attempt to equate incommensurables and that therefore in assessing damages whether in the case of a child or an adult. very moderate figure should be chosen. In the end, the House of Lords agreed that the proper figure in that case would be £200. They also observed that even that amount would be excessive if it were not that the circumstances of the infant were most favourable. This case has been reviewed in the law Quarterly Review Vol. 65 at page 10, thus :—

> "Perhaps the most remarkable instance of judicial legislation to be found in the book is *Benham* v. *Gambling* in which the House of Lords, faced with the insoluble problem of giving a reasonable construction to an Act which was itself unreasonable, established a fixed limit to control the award of damages for loss of expectation of life under the Law Reform (Miscellaneous Provisions) Act, 1934."

In *Hort* v. *Griffith Jones* (4), Streatfield, J., while dealing with damages for the death of a child aged four, observed :—

> "I must also bear in mind the age of the deceased child, and the fact that the child had yet to pass through the ordinary

(4) (1948) 2 All. E.R. 729.

dangers of childhood, and I do not think that as large an award of damages is applicable to a child of that age. I have also to take into account the change of the child's happiness of life....."

It was also held in that case that in assessing the amount of damages to be awarded in respect of the loss of expectation of life of a child, regard must be had to the depreciation in value of money since the decision in *Benham* v. *Gambling*. Since then, however, the courts in England as well as in our country have raised this figure due to a fall in the value of money. The House of Lords in England in the case of *Naylor* vs. *Yorkshire Electricity Board* (5), Danchwerts and Salmon, L.J.J. raised the conventional award to £500. In the case of *McCann* vs. *Sheppard* (6), it was increased to £750 by the Court of Appeal.

(8) In our country, the following cases would reveal that when a boy between one and five years is killed, the Court has been awarding the compensation ranging from Rs. 5,000 to Rs. 10,000 :—

Serial No.	Age of the child at death (in years)	Sex (Male/ Female)	Annual dependency awards towards dependency Rs.	Citation
1	2	3	4	5
(1)	4	—	5,000	1966 ACJ 148
(2)	1½	Male	2,000	1966 ACJ 382
(3)	1	—	5,000	1967 ACJ 90
(4)	4	Female	2,000	1969 ACJ 405
(5)	5	Male	6,000	1971 ACJ 324
(6)	3½	Male	5,000	1972 ACJ 380
(7)	4	Male	3,000	1972 ACJ 375
(8)	5	Male	8,000	1977 ACJ 359
(9)	7	Male	4,000	1977 ACJ 362
(10)	5	Male	6,000	1981 ACJ 420
(11)	5	Female	2,500	1983 ACJ 61
(12)	5	Male	6,000	1983 ACJ 478
(13)	3½	Female	5,000	1985 ACJ 123
(14)	5	Male	20,000	1986 (1) ACJ 252

(5) 1967 ACJ 223.

(6) 1974 A.CJ.. 1.

Serial No.	Age of the child at death (in years)	Sex (Male/ Female)	Annual dependency awards towards dependency Rs.	Citation
1	2	3	4	5
(15)	1½	Male	10,000	1986 (2) ACJ 591
(16)	2	Male	10,000	1986 (2) ACJ 1062
(17)	2	Male	25,000	1986 (2) ACJ 1087
(18)	3	Male	5,000	1987 ACJ 209
(19)	2	Male	10,000	1986 (2) ACJ 695

(*Note* :—Except in the cases cited at Sr. Nos, 14 and 17, the compensation was ranging between Rs. 5,000 and Rs. 10,000. For the reasons given in the later part of this judgment, the judgment reported as 1986 (1) ACJ 252 has been overruled. In 1986 (2) ACJ 1087, the Bench awarded a sum of Rs. 25,000 as compensation for the death of a two-year old child. No reasons have been given by the Bench while awarding this much compensation. The basic judgment of the Supreme Court reported as *C. K. Subramania Iyer and others* vs. *T. Kunhi Kuttan Nair and others* (7) was not noticed in the judgment).

The cases in the age-group of 5 to 10 years are tabulated as under :—

Serial No.	Age of the child at death (in years)	Sex (Male/ Female)	Annual dependency awards towards dependency Rs.	Citation
1	2	3	4	5
(20)	8	Male	6,000	1970 ACJ 110 (Date of accident 28th February, 1956)
(21)	8	Male	6,000	1966 ACJ 321
(22)	7	Male	10,000	1969 ACJ 344
(23)	9	Male	5,000	1969 ACJ 28
(24)	8	Female	5,000	1971 ACJ 144
(25)	8	Female	5,000	1971 ACJ 456
(26)	6	Female	6,000	1974 ACJ 470
(27)	10	Male	7,000	1975 ACJ 237

(7) 1970 ACJ 110 (S.C.)

Serial No.	Age of the child at death (in years)	Sex (Male/ Female)	Annual dependency awards towards dependency Rs.	Citation
1	2	3	4	5
(28)	10	Male	11,200	1977 ACJ 459
(29)	6	Male	6,000	1978 ACJ 215
(30)	10	Male	8,100 + 3,000	1979 ACJ 186
(31)	6	Female	7,200	1981 ACJ 296
(32)	6	Female	6,000	1982 ACJ 1
(3 3)	10	Female	2,000	1982 ACJ 63
(34)	7	Male	21,000	1987 ACJ 501
(35)	10	Male	12,000	1988 (1) ACJ 223

(9) In *C. K. Subramania Iyer's* case (supra), the deceased was aged 8 years and the claimants were his parents. The claim was for Rs. 30,000. The District Judge awarded Rs. 5,000 towards the pecuniary loss to the dependants, as also towards the loss to the estate, but the High Court determined the loss towards the dependency at Rs. 5,000 and the loss to the estate at Rs. 1,000. On appeal by the parents to the Supreme Court, the judgment of the High Court was affirmed. Their Lordships observed that even though at the time of fatal accident, the parents were not dependant on the child still they had a reasonable expectation of pecuniary benefits. Their Lordships considered the assessment of the loss to the dependency in the following manner :—

> "It is seen that the deceased child was only 8 years old at the time of his death. How he would have turned out in life later is at best a guess. But there was a reasonable probability of his becoming a successful man in life as he was a bright boy in the school and his parents could have afforded him a good education. It is not likely that he would have given any financial assistance to his parents till he was at least 20 years old. As seen from the evidence on record, his father was a substantial person. He was in business and his business was a prosperous one. As things stood, he needed no assistance from

his son. There is no material on record to find out as to how old were the parents of the deceased at the time of his death. Nor is there any evidence about their state of health. On the basis of the evidence on record, we are unable to come to the conclusion that the damages ordered by the High Court are inadequate."

Thus, it appears to us that if the age of the deceased child is between 5 and 9 years (below ten years) there is not much scope for evaluating the multiplicand exactly but at the same time, the reasonable expectation of pecuniary benefits in the future is not totally ruled out. It is true that certain High Courts have computed the dependency for these children also but, as pointed out by their Lordships of the Supreme Court, this is a mere guess work. In our view, *it may not be very much correct to proceed to compute mathematically the future damages when the annual dependency is likely to be a pure guess.*

(10) In 1956, their Lordship of the Supreme Court took Rs. 5,000 as a 'conventional figure', and the same can be upgraded on the basis of inflation. Even on that basis, at least a sum of Rs. 10,000 will be payable for an accident in the late eighties having regard to the inflation between 1956 and 1988.

(11) We shall now deal with the cases of children below five years.

(12) The jurisdiction of the Tribunal under the Motor Vehicles Act to award just compensation is very wide and comprehensive. However, the element of speculation cannot be ruled out. The determination of compensation would turn upon the particular facts of each case, viz., family environments, the members of the family; the health, the age of the victim, his outlook in life, the interest which the parents were taking in the child and the totality of circumstances tending to show whether the victim had a predominantly happy life or a life of misery or an insipid life. Apart from this, it has also to be taken into consideration whether the child was subject to risks of illness, disease, accident and death. His education and up keep would have been a substantial burden to the parents for many years if he had lived. He might or might not have turned out a useful youngman. He would have earned nothing till about the age of 16 years. He might not have aided his father at all. He might have proved a mere expense. We can not

adequately speculate one way or the other. It was in these circumstances that in *C. K. Subramania Iyer's* case (supra), their Lordships of the Supreme Court were pleased to observe :—

> "In assessing damages, the court must exclude all considerations of matter which rest in speculation or fancy though conjecture to some extent is inevitable. As a general rule parents are entitled to recover the present cash value of the prospective service of the deceased minor child. In addition they may receive compensation for loss of pecuniary benefits reasonably to be expected after the child attains majority."

(13) From the cases tabulated above, it will be revealed that the tribunals/courts have been awarding compensation ranging between Rs. 2,000 to Rs. 6,000. In peculiar circumstances, like the one in *Pushpinder Kaur Sekhon* vs. *Corporal Sharma* (8) where the mother of the deceased child had undergone tubectomy and section evacuation of the uterus, and could not, therefore, have any more children, S. S. Sodhi, J., awarded a sum of Rs. 10,000 as compensation to the parents. In those special circumstances, the court may be justified in awarding a higher compensation. There may be peculiar circumstances which might influence the court to reduce or enhance the amount but in other cases where no such special circumstances are shown, a maximum sum of Rs. 5,000 appears to have been awarded as compensation. In view of the fact that the value of money has declined, a sum of Rs. 6,000 may be a reasonable figure to be awarded as compensation to the parents.

(14) In the light of the above we shall now examine the correctness of the decision rendered by a Division Bench of this Court in FAO No. 38/1984 (supra). In that case, the mother, Shmt. Gurmit Kaur, was carrying her one year old son in her lap when she met with an accident. The child died while the mother sustained serious injuries as a result of the accident. While determining the quantum of compensation payable to the parents, the Tribunal adopted the following formula and allowed a sum of Rs. 19,200 as compensation :—

> "Even if it be assumed that the deceased child was of average intelligence, he may reasonably be expected to have secured atleast a class III post in the Government or elsewhere. Even as unskilled worker, he could have earned as much

(8) 1986 ACJ (2) 591

as person getting a job of the said nature. In that situation, in all probability, he would have been able to share atleast a sum of Rs. 100 p.m. for his parents after being in earning position. Thus, the probable annual dependency of the parents from his income on the said basis would come to Rs. 1200 p.a. Both the parents are young and a multiplier of 16 may justificly be applied which will reflect a just and reasonable amount of compensation to them. So computed the compensation to which the parents are entitled comes to Rs. 19,200 which the respondents No. 1 and 2 are liable to pay jointly and severally. But liability being covered by the policy of insurance issued by respondent No. 3 in favour of owner, the insurer will pay the said amount to the claimant with interest and costs."

The correctness of this decision was challenged in this Court in first appeal from the order, u/s 110-D of the Motor Vehicles Act, by the defendants in the claim application. The appeal was dismissed *in limine* and the award of the Motor Accident Claim Tribunal was upheld. The attention of the Bench was drawn to *C. K. Subramania Iyers case* (supra) and numerous other decisions where the formula propounded by the Tribunal for adopting a multiplier was never accepted.

(15) In the case of children of tender age, the compensation to be awarded is only for the loss of expectation of future happy life which, of course, forms a conventional figure, and their Lordships of the Supreme Court in *C. K. Subramania Iyer's* case (supra) took Rs. 5,000 as a conventional figure and upheld the decree of the court. There is no scope for evaluating the multiplicant exactly. Thus, the view taken by the Division Bench in FAO No. 38/1984 (supra) is contrary to the one taken by their Lordships of the Supreme Court in *C. K. Subramania Iyer's case* (supra). We hereby overrule the same.

(16) While we were dictating the judgment, it came to our notice that the decision rendered in FAO 38/1984 (supra) was followed in *K. L. Pasrija* vs. *The Oriental Fire & General Insurance Co.* (9). In that case a child aged five years was killed in an accident and a sum of Rs. 20,000 was awarded as compensation to the parents of the 'child'. Gokal Chand Mital, J., while determining

(9) (87) PLR 623.

the quantum of compensation payable to the parents of the deceased child in that case, observed as under :—

> "Next question is how much compensation the parents of the deceased minor are entitled to. The Tribunal was of the opinion that the rule of multiplier was not applicable while assessing damages in case of death of a child. A Division Bench of this Court in F.A.O. No. 38 of 1984 (M/s. Zenith Papers *vs.* Gurmit Kaur) decided on 6th April, 1984, has held that dependency and multiplier in case of death of a child in accident has also to be evaluated. Therein one year old child when carried by the mother in her lap died as a result of accident. It was ruled that even a labourer would have been in a position to contribute Rs. 100 per month for his parents and on that bases Rs. 19,000 was allowed to the parents. In view of the aforesaid decision, I hold that the parents of the deceased minor child are entitled to Rs. 20,000 as compensation. They shall further be entitled to interest at the rate of 12 per cent per annum from the date of filing of the claim application till payment thereof."

We have already overruled the judgment rendered in FAO No. 38/1984 (supra). Consequently, for the same reasons we overrule the decision in *K. L. Pasrija's case* (supra) in so far as it relates to the principles for determination of the quantum of cmopensation payable to the parents of the deceased child.

(17) The award of the Tribunal has not been challenged either by the insurance company or the owner/driver of the vehicle either on the ground of negligence or the quantum of compensation. It has been assailed only by the claimants. Accordingly we are left with no alternative but to uphold the award. The Tribunal has awarded interest at the rate of 10 per cent per annum. We think it will be just if the interest is awarded at the rate of 12 per cent per annum. We modify the award to this extent. The appeal is disposed of with these observations.

(18) In F.A.O. No. 487/1986, a young boy aged 12 years, who was a student of 4th class, was killed in an accident. The parents of the victim made a claim for damages. The Tribunal allowed compensation of Rs. 43,200 on account of loss of life. In arriving at this figure, it adopted the following criteria :—

> "It is common knowledge that even the farm labourers these days are available only at Rs. 20 per day and as such,

> the earning capacity of the deceased can in no case be less than Rs. 600 per month. The claimants have not brought on record their ages, i.e., the ages of the parents of the deceased, to work out the possible years of contribution towards their dependency by the deceased, had he remained alive. Be that as it may, keeping in view the circumstances of the deceased, he is expected to have earned a sum of Rs. 600 per month out of which he was likely to contribute Rs. 300 towards his parents i.e. Rs. 3,600 per annum. Keeping in view the possible age after which the deceased was likely to contribute towards the dependency of the claimants, multiplier of 12 as purchase factor, is reasonable to assess the loss of dependency in the instant case.

The formula adopted is not supportable by any logic or at law. No evidence was led that the deceased was rendering any services to the parents. There may be chances of his doing so in the near future. It is all in the realm of conjectures. There are no peculiar circumstances justifying a higher amount of compensation. We think it will meet the ends of justice if a sum of Rs. 15,000 is awarded as compensation to the claimants. We order accordingly. The claimants will also be entitled to interest at the rate of 2 per cent per annum on the amount awarded from the date of the application till its realisation.

(19) The appeal is allowed to the extent indicated above. Cross-objections No. 87-CII/1986 are dismissed. We, however, make no order as to costs in both the cases.

(20) In FAO No. 572/1987, a ten years old student was killed in an accident. The Tribunal assessed compensation for Rs. 20,000. In doing so, it relied on *K. L. Pasrija's case* (supra). We have already overruled this judgment in so far as it relates to the principles applicable for determining the quantum of compensation. The appeal has been filed only by the claimants, and the Insurance Company or the owner/driver of the vehicle have taken no exception to the award. In this view of the matter, we maintain the award and reject the appeal filed by the claimants. No order as to costs.

(21) Coming to FAO 446/1984, the Tribunal has awarded a sum of Rs. 18,000 along with interest at the rate of 6 per cent per annum from the date of the decree till the realisation of the decretal amount. The deceased, in this case, was aged 19 years at the time of the accident. The Tribunal has not given any reasons in support of the assessment made by it. It is proved on record that the

deceased was a student of an Industrial Training Institute. He was also doing some part-time job to render financial help to his parents. It can not be lost sight of here that after some time he is likely to have married and may not have been in a position to render financial help to the extent he was doing before his marriage. In view of the peculiar circumstances of the case, we think it would meet the ends of justice if a sum of Rs. 25,000 is awarded as compensation to the claimants. The amount awarded shall be payable along with interest at the rate of 12 per cent per annum from the date of the application till the realisation of the amount awarded. The appeal is allowed to the extent stated. We, however, make no order as to costs.

(22) In FAO No. 566/1984, the victim of the accident was a 17 years old student of 9th Class. His mother made a claim for compensation under the Motor Vehicles Act. The Tribunal awarded a sum of Rs. 24,000 as compensation. The same is held to be correct for the reasons given in this judgment, and not for the reasons stated by the Tribunal in its order. In the result, we dismiss the appeal filed by the claimants, but with no order as to costs. No meaningful arguments were addressed by the counsel for the cross-objectors Insurance Company in support of X-Objections No. 86-CII/1984. Consequently, we dismiss the same. No order as to costs.

(23) In FAO No. 765/1985, the deceased is stated to be 17 years of age on the date of the accident. The Tribunal awarded a sum of Rs. 24,000 as compensation to the claimants. It has given special reasons justifying the quantum of damages to the parents. No meaningful arguments were advanced by the appellants to disturb the finding on the quantum of compensation arrived at by the Tribunal.

(24) All what has been stated above by us will be applicable to the accidents which took place prior to October 1, 1982. By Act 47 of 1982, the Motor Vehicles Act, 1939 (Act No. 4 of 1939) was amended and Chapter VII-A was inserted in the principal Act. The principal object for inserting this provision was to provide immediate aid to the hapless victims of the motor accidents under the Motor Vehicles Act. Sections 92-A and 92-B read as under :—

> "92-A. *Liability to pay compensation in certain cases on the principle of no fault.*—(1) Where the death or permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle or motor vehicles, the owner of the vehicle shall, or, as the case may be, the owners of the vehicles shall, jointly and severally,

be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section.

(2) The amount of compensation which shall be payable under sub-section (1) in respect of the death of any person shall be a fixed sum of fifteen thousand rupees and the amount of compensation payable under that sub-section in respect of the permanent disablement of any person shall be a fixed sum of seven thousand five hundred rupees.

(3) In any claim for compensation under sub-section (1), the claimant shall not be required to plead and establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act, neglect or default of the owners or of the vehicle or vehicles concerned or of any other person.

(4) A claim for compensation under sub-section (1) shall not be defeated by reason of any wrongful act, neglect or default of the person in respect of whose death or permanent disablement the claim has been made nor shall the quantum of compensation recoverable in respect of such death or permanent disablement be reduced on the basis of the share of such person in the responsibility for such death or permanent disablement."

"92-B. *Provisions as to other right to claim compensation for death or permanent disablement.*

(1) The right to claim compensation under section 92-A in respect of death or permanent disablement of any person shall be in addition to any other right (hereafter in this section referred to as the right on the principle of fault) to claim compensation in respect thereof under any other provision of this Act or of any other law for the time being in force.

(2) A claim for compensation under section 92-A in respect of death or permanent disablement of any person shall be disposed of as expeditiously as possible and where compensation is claimed in respect of such death or permanent disablement under section 92-A and also in pursurance of any right on the principle of fault, the claim for compensation under section 92-A shall be disposed of as aforesaid in the first place.

(3) Notwithstanding anything contained in sub-section (1), where in respect of the death or permanent disablement

of any person, the person liable to pay compensation under section 92-A is also liable to pay compensation in accordance with the right on the principle of fault, the person so liable shall pay the first-mentioned compensation and :—

(a) if the amount of the first-mentioned compensation is less than the amount of the second-mentioned compensation, he shall be liable to pay (in addition the first-mentioned compensation) only so much of the second-mentioned compensation as is equal to the amount by which it exceeds the first-mentioned compensation.

(b) if the amount of the first-mentioned compensation is equal to or less than the amount of the second-mentioned compensation, he shall not be liable to pay the second-mentioned compensation."

The provisions of section 92-A are prospective. A plain reading of these provisions make it clear that they create a fixed liability of a quantified sum even when no fault is found. No wrongful act, neglect or default of any person need be proved. It is a payment which the owner of the vehicle has to make or the insurer has to make for him. The award under section 92-A of the Act is final between the owner of the offending vehicle and the claimant. Under sub-section (2) of section 92-A, irrespective of the age, the Tribunal is obliged to make an interim award and award a sum of Rs. 15,000 by way of compensation to the next kith and kin in case of death, and Rs. 7,500 in respect of disablement of any person resulting from accident arising out of the use of a motor vehicle or motor vehicles.

(25) Under sub-section (3) of section 92-B, the Tribunal has to award just compensation on the principle of fault and this compensation is in addition to the one awarded under section 92-A. If the compensation awarded under sub-section (3) of section 92-B is less than the one mentioned under sub-section (2) of section 92-A the Tribunal has to award the one mentioned under this section. In case the Tribunal comes to the conclusion that a higher compensation is to be awarded over and above the sum mentioned in sub-section (2) of section 92-A, he will keep the principles of determining the compensation enumerated in the preceding paragraphs of the judgment.

(26) With these observations, these appeals are disposed of but with no order as to costs.

R.N.R.