does not warrant that these words should be given wide interpretation. The intention of the Legislature is clear that the words 'legal proceedings' shall take the colour from the word 'suit'. The section in explicit words says that the notice shall contain the name of the plaintiff, the cause of action and the relief claimed. The use of words 'relief' and 'cause of action' gives a clear indication that 'legal proceeding' means proceeding akin to suit. The irresistible conclusion, therefore, is that in interpreting section 108, rule of *ejusdem generis* applies and that the words 'legal proceedings' do not include criminal proceedings. Consequently, no notice under section 108 is required to be given before instituting criminal complaint. The contention of the learned counsel also deserves to be rejected.

(7) For the reasons recorded above; the application fails and the same is dismissed.

N.K.S.

FULL BENCH

APPELLATE CIVIL

Before O. Chinnappa Reddy, M. R. Sharma and Harbans Lal, JJ.

JOKHI RAM,—*Appellant*

versus

SMT. NARESH KANTA AND OTHERS,—*Respondents.*

First Appeal from Order No. 47 of 1972

25th March, 1977.

Motor Vehicles Act (IV of 1939)—Sections 110-A and 110-B—Death resulting in a motor accident—Assessment of compensation—Mode of—Stated—Apportionment of compensation amongst the widow and minor children of the deceased—Minor children—Whether entitled to compensation only upto the age of majority.

Held, that the scope of compensation as contemplated under section 110-B of the Motor Vehicles Act 1939 is wider than under the Fatal Accidents Act, and the Courts while awarding compensation to the dependants of the deceased are to be guided by only one principle that the compensation assessed must be "just". In a fatal accicent, the life of the victim is cut short by the rash and negligent driving of the vehicle and the surviving dependents are deprived of the earnings of the deceased in addition to the consequent mental and emotional agony and breaking down of the family fabric. The

guiding star for the assessment of damages is that the annual earnings of the deceased, taking into consideration also the prospective benefits in the form of increments or promotions, should be ascertained after making deductions of the benefits which may accrue to the dependants as a result of the death and also the amount which the deceased was expected to have spent on his own person. This estimated income should be multiplied by the number of years by which the life of the deceased is estimated to be cut short. The result would be the fair capitalised amount of compensation to which the dependants may be entitled. For the purpose of assessing the fair income of the deceased and the estimated deductions, no rigid formula can be laid down. In each and every case, a number of factors peculiar to the life and the circumstances of the family concerned are in operation and the same have to be taken notice of. This is likely to introduce an element of conjecture also, but reasonable conjecture and not wild speculation should be taken into consideration while assessing the just compensation to which the claimants may be entitled. The principle that compensation should be awarded keeping in view the interest which may be earned by making a deposit in a bank, however, cannot be adopted as an inflexible principle for the purpose of assessing the compensation specially in these days when the purchasing power in terms of money is being eroded after short intervals on account of run away inflation.

(Paras 13 and 14)

Held, that the basic principle for working out the amount of compensation is to ascertain the estimated annual income of the deceased after allowing reasonable deductions and capitalising the same by multiplying this amount by the number of years by which the life expectancy of the deceased has been cut short. The amount worked out by this method cannot be allowed to be whittled down under one garb or the other. In the case of minor children surviving an unfortunate deceased, it is unrealistic and fallacious to think that the responsibility of the deceased would have come to an end as soon as the son became *sui juris* after attaining the age of majority and the daughters were sure to be married after the age of 16 years. According to the prevailing customs and traditions and the joint family system in India, the obligation of the head of the family, who is the bread earner, to maintain the children and to educate them continues till the sons stand on their feet and have a separate source of earning and in case of daughters, till they are married. Once the amount of compensation to be awarded to the dependants is worked out the same may be apportioned amongst the widow and the children, but it should be done in such a manner that the total amount is received by the surviving family.

(Para 16).

Case referred by Hon'ble Mr. Justice D. S. Tewatia to a larger Bench on 13th March, 1975 for the decision of an important question of law involved in the case. The Full Bench consisting of Hon'ble Mr. Justice O. Chinnappa Reddy, Hon'ble Mr. Justice M. R. Sharma

and Hon'ble Mr. Justice Harbans Lal, has finally decided the case on merit on 25th March, 1977.

First Appeal from the order of the Court of Shri Salig Ram Seth, Motor Accident Claims Tribunal, Hissar, dated the 6th day of November, 1971, awarding a sum of Rs. 25,562 by way of compensation to the petitioners against the respondents and this amount would be deposited by the Insurance Company within two months and further ordering that in default, the claimants would recover the same with interest at the rate of 6 per cent per annum from the date of order upto the date of realization like a decree of the court.

N. C. Jain, Advocate, *for the appellants.*

Harinder Singh, Advocate, *for Respondents Nos.* 1 to 6.

JUDGMENT

Judgment of the Court was delivered by:—

Harbans Lal, J.

(1) These three appeals, F.A.Os. Nos. 47, 84 and 114 of 1972, are before us for determination of two points of law on a reference from Tewatia, J. (as he then was),—*vide* his order March 13, 1975, and shall be disposed of by one judgment as all these three appeals were filed against the decision of the Motor Accidents Claim Tribunal (hereinafter called the Tribunal), dated November 6, 1971.

(2) Shri Om Parkash Sharma, deceased, was returning from Fatehabad to Tohana on a motor-cycle driven by Surat Singh on January 28, 1969, at 7.30 p.m. At a distance of about three miles from Bhuna on Bhuna-Fatehabad Road, a truck No. HRH—9071, driven by Sher Singh and owned by Jokhi Ram came rashly and negligently from the opposite side and dashed into the motor-cycle resulting into the death of Om Parkash Sharma and Surat Singh. First information report regarding this incident was lodged in the Police Station, Bhuna. Shrimati Naresh Kanta, wife of Om Parkash Sharma (deceased) and his five minor children (four daughters and one son) filed an application under section 110-A of the Motor Vehicle Act, 1939 (hereinafter called the Act), before the Tribunal claiming compensation amounting to Rs. 1,40,000. The truck was insured with the Vanguard Insurance Company Limited. Shri Jokhi Ram, Sher Singh and the Vanguard Insurance Company were impleaded as respondents as the owner, driver and the insurer of the truck, respectively. All the three respondents contested the

claim. On the pleadings of the parties, the following issues were framed:

1. Whether the accident took place due to rashness and negligence of the driver, Sher Singh ?
2. Whether the petition is in time ?
3. Whether Sher Singh, driver, was in the employment of truck owner Jokhi Ram at the time of occurrence, and if so, its effect ?
4. Whether the petitioners are entitled to any amount of compensation, if so, to what amount and from whom ?
5. Whether the insurance company is not liable for the claim of the petitioners for reasons given in their written statement ?
6. Relief.

All the issues were decided against the appellants (respondents). Regarding issues Nos. 1 and 3, it was held that the accident had occurred due to the rash and negligent driving by Sher Singh, driver, the truck was owned by Jokhi Ram and that at the time of the occurrence, Sher Singh was in the employment of the owner of the truck as driver and was driving the truck. Issue No. 2 was also decided in favour of the applicants and the application was held to be within time. Issue No. 5 was decided against the insurance company and it was held liable for the claim of the applicants. On issue No. 4, the Tribunal came to the following conclusions :

1. that Om Parkash Sharma (deceased) was employed as a Line Superintendent in the Haryana State Electricity Board and was drawing a salary of Rs. 390 per month; and
2. that the wife of Om Parkash Sharma (deceased) got pension on the death of her husband at the rate of Rs. 120 per mensem. After deducting Rs. 70 per mensem on account of rent of the house, Rs. 37 per mensem as share of the deceased and Rs. 60 per mensem as expenditure on himself out of his salary of Rs. 390 per mensem, in addition to Rs. 120 on account of the monthly pension, the loss to the applicants was assessed at Rs. 103 per mensem.

(3) Om Parkash Sharma (deceased) was found to be 37 years old at the time of the accident and calculating his life expectancy

at 60 years, damages for 23 years at the rate of Rs. 103 per mensem were calculated at Rs. 28,428.

(4) Om Parkash Sharma (deceased) was insured for Rs. 2,000 which amount was received by the applicants after his death. After excluding one-third of this amount, Rs. 666 were deducted from the amount of damages. Besides, the gratuity amounting to Rs. 2,200 was also deducted. After making all these deductions, the Tribunal awarded an amount of Rs. 25,562 to the applicants and the insurance company was directed to pay this amount within two months.

(5) Jokhi Ram, the owner of the truck, Sher Singh, its driver, and the Vanguard Insurance Company have filed these three separate appeals challenging the award. On issues No. 1, 2 and 3, the learned Single Judge upheld the findings of the Tribunal in the reference order. Mr. Suri, the learned counsel for the appellants, in F.A.O. No. 114 of 1972, raised the following two contentions :

1. The amount of compensation as awarded by the Tribunal is excessive. The same should not have exceeded the amount which if deposited in the Bank would yield a monthly interest equivalent to the monthly pecuniary loss to the applicants on account of the demise of Om Parkash Sharma ; and

2. The formula adopted by the Tribunal for calculating the amount of compensation is unwarranted.

(6) In support of the first contention, the learned counsel, relied upon *Surjit Singh and another* v. *The Co-operative General Insurance Society Limited and others* (1) and the decision in the *New Suraj Transport Company Private Limited and others* v. *M/s Rubby General Insurance Company Limited and others* (2). The learned Single Judge was of the opinion that the Tribunal while calculating the pecuniary loss to the applicants did not make any allowance whatsoever in regard to the future increments in the salary of Om Parkash Sharma (deceased), nor to his future chances of promotion. It was further held that a Government servant is normally expected to get the annual increment and the normal promotion and as such,

(1) 1974 Pb. Law Reporter, 353.

(2) F.A.O. 145/68, decided on 7th May, 1974.

the application of the interest theory without making allowance for future increments and promotion will do injustice to the case of the applicants.

(7) In regard to the second contention, the learned counsel stressed that the liability of Om Parkash Sharma (deceased) to maintain the minor children whatsoever, came to an end on their attaining majority and, therefore, the pecuniary loss cannot be determined on the basis of the life expectancy of the deceased as cut short by the accident. In support of this contention, reliance was placed on *Parkash Vati and others* v. *The Delhi Dayal Bagh Dairy Limited* (3), *and Sarla Devi and others* v. *Sharif Devi Aggarwal and others*, (4). The learned Single Judge, after making reference to his observations in an earlier judgment reported as *Sood and Company, Kulu* v. *Surjit Kaur and others* (5) was of the opinion that the mode of calculation of the compensation as suggested by the learned counsel was likely to result in irrational and startling results and that the Division Bench in *Parkash Vati's case* (3) (supra), had not considered the matter exhaustively and the contrary view-point was not before them. As the learned Single Judge was of the opinion that these two points of law were likely to arise in a number of cases and are of general importance and public interest and as such should be decided authoritatively by a Full Bench, referred them for determination by a Full Bench. It is in these circumstances that we are called upon to decide these three appeals in regard to the assessment of damages and the compensation arising in issue No. 5.

(8) The application by the applicants out of which these three appeals have arisen, was filed under section 110-A of the Act. The compensation is to be awarded by the Tribunal under section 110-B, which provides that the Tribunal should give opportunity of being heard to the parties, should hold an enquiry into the claim and further that the award is to be made after "determining the amount of compensation which appears to it to be just." Various High Courts and the Supreme Court have had the occasion to deal with the question of assessment of compensation in similar matters in a large number of cases. The principles governing the estimation of the damages in the cases arising under the English Fatal Accidents

(3) 1967 Accidents Claims Journal 82.
(4) 1968 Accidents Claims Journal 163.
(5) 1973 Accidents Claims Journal 414.

Acts, the provisions of which are analogous to the provisions in the Fatal Accidents Act ,in India, were laid down by Lord Wright in *Davies* v. *Powell Duffryn Associated Collieries Limited* (6), and were restated with force and clarity by Viscount Simon in *Nance* v. *British Columbia Electric Railway Company Limited*, (7). According to these decisions, the deceased man's expectation of life has to be estimated having regard to his age, bodily health and the possibility of premature determination of his life by circumstances like accidents. Secondly, the amount required for the future provision of his wife shall be estimated after taking into consideration the amount he used to spend on her during his life time. Thirdly, the estimated annual sum is multiplied by the number of estimated number of years of the man's estimated span of life and the said amount must be discounted so as to arrive at the equivalent in the form of a lump sum payable on his death. Fourthly, deductions should be made for the benefit accruing to the widow from the acceleration of her interest in his estate, and fifthly, further amounts have to be deducted for the possibility of the wife dying earlier if the husband had lived the full span of life; and it should also be taken into account that there is the possibility of the widow remarrying much to the improvement of her financial position. After considering the above mentioned decisions, their Lordships of the Supreme Court in *Gobald Motor Service Limited and another* v. *R. M. K. Veluswami and others* (8), held,—

> "It would be seen from the said mode of estimation that many imponderables enter into the calculation. Therefore, the actual extent of the pecuniary loss to the respondents may depend upon data which cannot be ascertained accurately, but must necessarily be an estimate, or even partly conjecture. Shortly stated ,the general principle is that the pecuniary loss can be ascertained only by balancing on the one hand the loss to the claimants of the future pecuniary benefit and on the other any pecuniary advantage which from whatever source comes to them by reason of the death, that is, the balance of loss and gain to a dependent by the death must be ascertained."

(6) 1942 A.C. 601.
(7) 1951 A.C. 601.
(8) A.I.R. 1962 S.C. 1.

(9) In *Municipal Corporation of Delhi* v. *Subhagwanti*, (9), their Lordship of the Supreme Court relied upon another observation of Lord Wright in *Davies's case* (6) (Supra), according to which for the purpose of assessing the amount of compensation due to the beneficiaries, the amount of wages which the deceased was earning has to be ascertained after making allowance for the estimated amount which the deceased was spending on himself during his lifetime and then the balance should be turned into a lump sum by taking a certain number of years' purposes. In the said case before the Supreme Court, the income of the deceased had been capitalised for a period of 15 years on the basis of this formula by the High Court. This was approved by the Supreme Court.

(10) In *C. K. Subramonia Iyer and others* v. *T. Kunhikuttan Nair and others* (10), after discussing the various decisions on the subject in England, their Lordships of the Supreme Court formulated the principles for assessing the damages as follows:

> "In assessing damages, the Court must exclude all considerations of matter which rest in speculation or fancy though conjecture to some extent is inevitable."

(11) Lord Haldane in his judgment in *Taff Vale Railway Company* v. *Jenkins* (11), held that while estimating the damages solatium cannot be awarded inasmuch as no damages can be awarded for injured feelings or on the ground of sentiment, but prospective loss to the dependants of the deceased can certainly be taken into consideration. The relevant observations may be reproduced below :

> "The basis is not what has been called solatium, that is to say, damages given for injured feelings or on the ground of sentiment, but damages based on compensation for a pecuniary loss, but then loss may be prospective, and it is quite clear that propective loss may be taken into account. It has been said that this is qualified by the proposition that the child must be shown to have been earning something before any damages can be assessed. I know of no foundation in principle for that proposition either in the statute

(9) A.I.R. 1966 S.C. 1750.
(10) A.I.R. 1970 S.C. 376.
(11) 1913 A.C. 1.

> or in any doctrine of law which is applicable; nor do I think it is really established by the authorities when you examine them.....I have already indicated that in my view the real question is that which Willes, J., defines in one of the cases quoted to us, *Dalton* v. *South Eastern Railway Company*, (12) Aya or No. was there a reasonable expectation of pecuniary advantage ?"

This dictum was approved by the Supreme Court in *C. K. Subramania Iyer's case* (10) (supra), and it was held that the parents are entitled to recover the present cash value of the prospective service of the deceased minor child and that they may be awarded compensation for loss of pecuniary benefits reasonably to be expected after the child attains majority. In the said case before the Supreme Court, the Tribunal had awarded damages to the parents of the deceased child aged 8 years. Those damages were upheld by the High Court.

(12) In *Hirji Virji Transport and others* v. *Basiram Bibi* (13), a Division Bench of the Gujarat High Court, after perusing the decisions of the English and Indian Courts on the subject, concluded that in cases of fatal accidents, the damages have to be assessed by making estimates of all chances and changes in future. All reasonable possibilities of future will always enter into assessment and such an estimation necessarily involves some conjecture while assessing the damages on the materials on the record as regards various uncertain factors and the probabilities.

(13) The Supreme Court in the aforesaid decisions has evolved the principles governing the estimation of the damages on the basis of sections 1-A and 2 of the Fatal Accidents Act, 1855. Under Section 1-A, the damages are payable to one or the other relations enumerated therein whereas the latter section provides for the recoupment of any pecuniary loss to the estate of the deceased occasioned by the wrongful act complained of. Sometimes, the beneficiaries under the two provisions may be the same. The scope of compensation as contemplated under section 110-B of the Act, is wider than under the Fatal Accidents Act, and the Courts while awarding compensation to the dependants of the deceased are to be guided by only one principle that the compensation assessed must be "just". In a fatal accident,

(12) (1958) 4 C.B. (N.S.) 296.

(13) 1971 Accidents Claims Journal 458.

the life of the victim is cut short by the rash and negligent driving of the vehicle and the surviving dependants are deprived of the earnings of the deceased in addition to the consequent mental and emotional agony and breaking down of the family fabric. The guiding star, according to the above-mentioned judgments for the assessment of damages is that the annual earnings of the deceased, taking into consideration also the prospective benefits in the form of increments or promotions, should be ascertained after making deductions of the benefits which may accrue to the dependents as a result of the death and also the amount which the deceased was expected to have spent on his own person. This estimated income should be multiplied by the number of years by which the life of the deceased is estimated to be cut short. The result would be the fair capitalised amount of compensation to which the dependents may be entitled. For the purpose of assessing the fair income of the deceased and the estimated deductions, no rigid formula can be laid down. In each and every case, a number of factors peculiar to the life and the circumstances of the family concerned are in operation and the same have to be taken notice of. This is likely to introduce an element of conjecture also, but as stated by the Supreme Court, reasonable conjecture and not wild speculation should be taken into consideration while assessing the just compensation to which the claimants may be entitled.

(14) The learned counsel for the appellants, contended that after estimating the annual earnings of the deceased and allowing deductions accruing to the applicants as a result of the death, only such amount should be allowed as compensation which may be able to fetch the same monthly amount of Bank interest, according to the various Bank schemes introduced by the Banks with regard to the recurring or fixed deposits. In support of this contention, reliance has been placed on *Parminder Singh* v. *Mukatsar Janta Co-operative Transport Society Limited and another* (14), *Jagir Kaur and others* v. M/s. *Uttam Singh Chattar Singh and others* (15), *Sukhdev Raj Jain and others* v. *Shanti Devi and others* (16), and the decision of this Court in *The New Suraj Transport Company's case* (2) (supra), wherein it was held,—

> "Mr. Suri contends that that criteria is not correct, because the correct criteria has been laid down by this Court in

(14) 1973 Accidents Claims Journal, 116.

(15) 1975 Accidents Claims Journal, 26.

(16) 1975 Accidents Claims Journal, 246.

Surjit Singh and another v. *The Co-operative General Insurance Society Limited and others* (1) (supra). In this case, it was held that as the claimants are getting a capitalised sum, the mode to work out what sum they should get is to see how much interest that amount fetches and if that interest equalizes the benefit they were getting from the deceased, then that amount should be awarded as compensation. No other authority taking a contrary view has been brought to our notice and, in fact, we are bound by our decision. Therefore, the criteria laid down in *Surjit Singh's case* (supra), has to be applied."

According to Mr. Suri. the learned counsel for the appellants, on the basis of the *ratio* of these judgments, the amount of compensation awarded to the applicants-respondents, deserves to be reduced from Rs. 25,562 to about Rs. 12,000 or 15,000 which amount, if invested in the Bank, would be able to fetch the amount of Rs. 103 or even more per mensem which has been assessed as the monthly income of the deceased for the purpose of compensation. It is correct that in the above-mentioned cases compensation has been awarded keeping in view the interest which may be earned by making a deposit in the Bank. However, this interest theory cannot be adopted as an inflexible principle for the purpose of assessing the compensation specially in these days when the purchasing power in terms of money is being eroded after short intervals on account of run away inflation.

(15) So far as the present case is concerned, the assessment by the Tribunal of the monthly income of the deceased of Rs. 103 for the purpose of estimating damages to the claimants is very much on the low side and has been worked out on the basis of a wrong data. The deceased was admittedly employed as a Line Superintendent in the Haryana State Electricity Board and at the time of his death was drawing a monthly salary of Rs. 390. According to the statement of Shri Amar Singh Gupta, Accountant, Haryana State Electricity Board, A.W. 2, the deceased could be promoted as a Sub-Divisional Officer and even as an Executive Engineer if everything went on smoothly. It was also stated that the initial pay of a Sub-Divisional Officer was Rs. 450 per month and that of an Executive Engineer was Rs. 800 per month. The deceased must also be entitled to annual increments. However, these chances of promotion which cannot be termed as mere speculative were excluded from consideration by the Tribunal while assessing the annual income of

the deceased. On the other hand, a sum of Rs. 120 per mensem was deducted from the monthly salary of the deceased on the ground that his widow had been awarded Rs. 120 per mensem as pension. Shrimati Naresh Kanta, applicant, in her statement categorically stated that the pension granted to her on account of the death of her husband was Rs. 120 per mensem for seven years and thereafter, she would be paid only Rs. 60 per mensem. There was nothing on the record to contradict this statement of the widow. I have also perused the Family Pension Scheme, 1964 according to which a widow is entitled to double the normal pension for the first seven years from the date following the date of death of the deceased or till the date on which the deceased would have reached the normal age of superannuation had he remained alive, whichever period is shorter, and thereafter, the normal pension would be payable to her. In the present case, the widow of the deceased in view of his monthly salary of Rs. 390 was entitled to only Rs. 60 per mensem as pension. Thus, to deduct Rs. 120 per mensem out of the monthly salary of the deceased for all the 23 years by which the life of the deceased was cut short was, on the face of it, unfair and unreasonable. Besides, Rs. 70 per mensem as also deducted from the salary of the deceased on the ground of rent of the house which is not warranted from the evidence on the record. A sum of Rs. 37 per mensem was also deducted the justification for which is not clear from the judgment of the Tribunal. In our view, taking into consideration that the deceased was earning a monthly salary of Rs. 390 at the time of the accident and would have also earned increments and promotions in normal circumstances and that the widow would be entitled to less pension than calculated by the Tribunal, the net loss to the claimants cannot be estimated at less than Rs. 250 per mensem. Keeping this in view, the total capitalised sum which may be sufficient to fetch a monthly interest of Rs. 250 by depositing the same in a Bank cannot be less than the amount which has been awarded by the Tribunal.

(16) The second contention of the learned counsel for the appellants is that the capitalised sum as awarded by the Tribunal should be apportioned amongst the widow and the five minor children in equal shares. As the minor son will be entitled to compensation only up to the age of attaining majority, that is, 18 years and the minor daughters up to the age of 16 years, their shares should be reduced proportionately as the capitalised sum has been worked out by multiplying the annual

loss by 23 years by which the life of the deceased had been cut short. In support of this contention, reliance has been placed on *Parkash Vati's case* and *Sarla Devi's case* (supra). In the former case, the Tribunal had awarded compensation to the son of the deceased up to the age of 18 years and to the daughters of the deceased up to the age of 16 years. Falshaw and Mehar Singh, JJ. (as they then were), held as follows :

> "Although something can be said as regards the calculation of damages up to the age of majority in the case of sons, but in the case of daughters, for marriage, in these days, the age of 16 years appears to be somewhat low age and the tendency these days being that girls are married at a later age, it is reasonable that even in the case of the daughters the age for the matter of calculation of loss be taken as 18 years."

A perusal of the above judgment shows that perhaps elaborate arguments were not addressed challenging the propriety of the award regarding the apportionment of compensation to the children only up to the age of majority and the judgment does not indicate the application of any serious mind to the problem. In *Sarla Devi's case* (4) (supra), the award by the Tribunal fixing the compensation in regard to the children up to the age of majority was upheld by the learned Single Judge and without any discussion, only the following observations were made:

> "So far as the award of compensation to the children is concerned, it does not call for any enhancement."

In *Surjit Kaur's case* (5) (supra), Tewatia, J. (as he then was) was of the opinion that the mode of calculation of the compensation by applying the principle of age of majority in case of minor children would lead to irrational and startling results. According to the learned Judge, if a widow is the only surviving dependent, she would be awarded the entire capitalised sum after multiplying the estimated yearly loss by the number of years by which the life of the deceased is cut short, but in cases where the deceased is survived not only by his widow, but also by his minor children, under the garb of awarding separate compensation to the minor children, the share of the widow would be reduced considerably and the minor children awarded compensation for a few years in case they were say 16 or 17 years of age at the time of the

unfortunate fatal accident. Such a method of calculation of damages and awarding compensation cannot be held to be "just" and such an award under section 110-B of the Act, cannot be sustained. As has been held by their Lordships of the Supreme Court, referred to in the earlier part of this judgment, the basic principle for working out the amount of compensation is to ascertain the estimated annual income of the deceased after allowing reasonable deductions and capitalising the same by multiplying this amount by the number of years by which the life expectancy of the deceased has been cut short. The amount worked out by this method cannot be allowed to be whittled down under one garb or the other. In the case of minor children surviving an unfortunate deceased, it is unrealistic and fallacious to think that the responsibility of the deceased would have come to an end as soon as the son became *sui juris* after attaining the age of majority and the daughters were sure to be married after the age of 16 years. According to the prevailing customs and traditions and the joint family system in India, the obligation of the head of the family, who is the bread earner, to maintain the children and to educate them continues till the sons stand on their feet and have a separate source of earning and in case of daughters, till they are married. Once the amount of compensation to be awarded to the dependants is worked out, the same may be apportioned amongst the widow and the children, but it should be done in such a manner that the total amount is received by the surviving family.

(17) So far as the present case is concerned, in our opinion, the amount of compensation awarded by the Tribunal cannot be held to be in any manner excessive. Rather, it is on the low side. Because no appeal has been filed by the applicants, we are not called upon to interfere with the award, but no case is made out for reducing the amount of the award either on the basis of the interest theory or on the basis of apportioning the same between the widow and the children up to a particular age.

(18) Lastly, it has been contended that under section 95(2)(a) of the Act, the maximum liability of the appellant insurance company was Rs. 20,000. This provision was amended by Act No. 56 of 1969 by which the maximum liability of an insurance company in cases of trucks was enhanced from Rs. 20,000 to Rs. 50,000. This amendment was, however, enforced with effect from March 2, 1970, whereas the accident took place on January 28, 1969. Thus, the contention

is not without substance. The appellant insurance company cannot be held liable to pay more than Rs. 20,000. To this extent, the award of the Tribunal needs to be modified. We order accordingly.

(19) For the reasons mentioned above, these three appeals are dismissed with this modification of the award that out of the amount of Rs. 25,562 awarded by the Tribunal to the respondents, the Vanguard Insurance Company, would be liable to pay only the amount of Rs. 20,000 and the other appellants for the remaining amount. There will be no order as to costs.

(20) I agree that the appeals should be dismissed with the modification that the Vanguard Insurance Company would be liable to pay the amount of Rs. 20,000 only.

O. Chinnappa Reddy, J.

M. R. Sharma, J.— I agree.

N. K. S.

FULL BENCH

MISCELLANEOUS CIVIL.

Before O. Chinnappa Reddy, S. S. Sidhu. A. S. Bains, Harbans Lal and Surinder Singh, JJ.

MEGHA SINGH AND COMPANY and others,—*Petitioners.*

versus

THE STATE OF PUNJAB and others,—*Respondents.*

Civil Writ No. 719 *of* 1977.

March 25, 1977.

Punjab Panchayat Samitis and Zila Parishads Act (III of 1961)— *Sections* 65, 66, 67, 70 *and* 115(4)—*Punjab General Sales Tax Act (XLVI of* 1948)—*Section* 6 *and Schedule B, entry* 37—*Punjab Panchayat Samitis (Sale of Liquor) Rules* 1976—*Goods declared not taxable under the Sales Tax Act—Such goods—Whether can be notified as taxable under the Punjab Panchayat Samitis and Zila Parishads Act—Legislative policy if any—Whether discernible from entry* 37—*Panchayat Samiti—Whether a delegate of a delegate— Tax—Whether could be levied for the period prior to framing of*