

ASSESSMENT OF COMPENSATION UNDER THE MOTOR VEHICLES ACT, 1988 IN CASE OF DEATH UNDER THE PRINCIPLE OF FAULT LIABILITY

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ABSTRACT

The legal landscape regarding motor accident claims has rested on the principle of fault liability, wherein the claimant is required to prove the negligence of the respondent. Though the law does not provide a statutory definition of negligence, it typically considers it a breach of duty where a reasonable man would have acted differently under similar circumstances. Compensation in motor accident cases is given to bring the claimant to the position he would have been in if the accident had not taken place. However, it has been accepted that compensation, be it of any amount cannot compensate for the loss of a limb or life, and the suffering associated. The courts are thus left with the tedious task of awarding compensation, which is mostly concerned with pecuniary damages like medical expenses, loss of earnings, and funeral expenses, as well as non-pecuniary damages like loss of consortium. The basic factor common to these cases is "just compensation," in which courts and tribunals are required to award such amounts as can be said to be fair and reasonable in respect of the peculiar circumstances of each case. This approach has recently been enjoined by the Supreme Court in its landmark cases clearly laying down that compensation should neither be punitive nor a windfall for the victim but must reflect the true nature of loss sustained. This sets out the general approach: in assessing compensation, especially in death cases, courts usually follow a three-step process, thus: first, ascertaining the deceased's income, which is the multiplicand; second, choosing an appropriate multiplier having considered the deceased's age and life expectancy; and third, calculating the total amount of compensation by considering the loss of dependency, funeral expenses, and personal expenses of the deceased. The law is also alive to the complexity that arises when a child or a housewife dies, wherein the traditional compensatory regime is very difficult to apply. In this case, the courts have developed the award in respect of future prospects, non-pecuniary losses, and the invaluable contributions the deceased offered to their families. Thus, the paper discusses the assessment of compensation under the Motor Vehicles Act, 1988 in case of death under the principle of fault liability. The fact that the Motor Vehicles

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Act itself has undergone evolution and the judicial principles laid down show that a balanced and compassionate approach to compensation in motor accident cases is called for so that victims of motor accidents or their heirs could get just and fair compensation, redolent of their losses.

Keywords: Motor Vehicles Act, 1988, Compensation, Just Compensation, Death, Fault Liability.

INTRODUCTION

Under Common Law, the right to claim damages for death was rare or non-existent, though, damages for personal injury could be availed. This system of law developed gradually and led to the introduction of the “Fatal Accidents Act in India in 1855. Then, the Motor Vehicle Act of 1939 was passed to control cases of accidents with motor vehicles.” This was later repealed by the “Motor Vehicles Act of 1988, which was enacted to consolidate and amend the enactments relating to accidents by motor vehicles. When a law is enacted to consolidate and amend existing legislation, it is not only the current law which the Legislature has in mind but also the legislation which has preceded it.”¹ The 1988 Act, too, is enacted to regulate the use of motor vehicles and to provide compensation to victims who suffer injury or death due to accidents, and death, to their families and dependents. Again, the Act was amended in 1994 and further in 2019 and 2023.

It has long been established in the context of motor accident claims that efforts should be made to restore the claimants to the position they were in before the accident.² The needs of the victim are ignored, the and cause of the injury is all important.³

It should, therefore, be adequate to place the injured parties or claimants in the same position they would have been had the accident not taken place.

THE PRINCIPLE OF FAULT LIABILITY

The claimant must prove the negligence of the respondent. For any person to be held liable for any wrongdoing, fault has to be proved. Although there is no definition of negligence

¹ “Machindranath Kernath Kasar Vs. D.S. Mylarappa, AIR 2008 SUPREME COURT 2545.

² Dean and Feeney, "Compensation to the Victims of Crime", (1968), 10 Can. J. Corr. 261.

³ Lewis, R(1981) ‘No-Fault Compensation for Victims of Road Accidents: Can it be Justified?’ Journal of Social Policy 10(2) pp. 161-178. Doi: 10.1017/s0047279400010618.

given under any statute, negligence is commonly referred to mean a breach of duty either by omission of doing something which in ordinary standard of conduct a reasonable man would do or by doing something which a reasonable would not do.

Supreme Court defines the order “negligence” as follows: "Negligence means omission to something with reasonable and prudent means granted by the consideration which ordinary regulate human affairs or doing something which prudent and a reasonable means guided by similar considerations would not do."⁴

CLAIMANT ELIGIBILITY

In cases of death, the person who died due to the act of rash and negligent driving⁵ of the driver, his legal heirs would be claimants. Even those various legal heirs who do not depend on the deceased for money are entitled to claim compensation.⁶ However, the legal representatives of the deceased will not be able to claim any compensation if the deceased himself is guilty of the offense of rash and negligent driving.⁷

In the landmark case of “Sarla Verma vs. Delhi Transport Corporation⁸, the eligibility of dependents was thrown open to interpretation. It was held that prima facie, a father is supposed to have an independent source of earning, and, therefore, he cannot be considered to be a dependent, whereas the mother would generally be counted as a dependent. Siblings, among them brothers and sisters, also are not in most cases regarded as dependents as they would be assumed to be living on their means of dependant of their father, although married. Therefore, in case of the demise having both his/her parents alive, it's only the mother that would be considered as a dependant for compensation purposes.”

On the other hand, the scope of interpretation that could be given to entitlement was widened even further in the Supreme Court's ruling in “Manjuri Bera vs. Oriental Insurance Company⁹. The court considered that, under Section 140 of the Motor Vehicles Act, although, the legal heirs of the deceased, who are, in the present case her fathers, do not depend financially on the deceased, they are also entitled to compensation under this section.

⁴ State of Karnataka v. Muralidhar, AIR 2009 SC 1621.

⁵ Rathnashalvan v. State of Karnataka, AIR 2007 SUPREME COURT 1064.

⁶ Supla Devi vs. Rameshkumar, (2007) 2 ACC 152.

⁷ Oriental Insurance Co. Ltd. Vs. Rajni Devi, AIR 2008 SC 33.

⁸ Sarla Verma vs. Delhi Transport Corporation AIR 2009 SUPREME COURT 3104.

⁹ Manjuri Bera vs. Oriental Insurance Company AIR 2007 SUPREME COURT 1474.

This section makes the defendant answerable regardless of the fact of dependency, and the deceased irrespective are compensated even if there is no dependency.”

However an injured person dies before any claim for compensation is decided, his legal heirs cannot appeal for compensation for injury.

PRINCIPLES OF COMPENSATION ASSESSMENT

Courts are posed with an onerous task—that of assessing compensation. Life itself, a limb, or a loss of human faculties cannot be priced.¹⁰ The compensation could only be granted for the pecuniary losses; that is, the actual amount of money spent on emergent bills, lost earnings, and such resources. Furthermore, nominal damages may be awarded for the funeral bills, loss of consortium, and conventional damages.¹¹

A significant part of the compensation assessment focuses on pecuniary loss, directly linked with the deceased's earning capacity and life expectancy.¹² The amount of compensation is, in most cases, computed at an estimation level due to the hypothetical considerations and to a certain extent the emp, they brought in juxtaposition to the nature of the disability or loss involved by the victim. The courts and tribunals have to strike a balance in giving an award of compensation that deals with the financial effects on the claimants, the nature of death or injuries, and the generally prevailing circumstances of how the accident occurred. While no court can fully compensate for the loss of life or limb, the compensation is intended to at least ease, in part, the financial burden attributed to the accident and give something back to the victims or their families.

PRINCIPLE OF RIGHTFUL COMPENSATION

It is competent for the Tribunal to award compensation in excess of the claimed amount if it is considered just compensation. “Law Commission in its 51st report was also concerned and dissatisfied regarding the position as to compensation for personal injuries caused by automobiles. The dissatisfaction can be attributed partly to defects in the law, and partly to the inherent nature of the situation. Remedies suggested for removing this dissatisfaction

¹⁰ Vibhute KI, “COMPENSATING VICTIMS OF CRIME IN INDIA: AN APPRAISAL” (1990) 32 Journal of the Indian Law Institute 68.

¹¹ B.T Krishnappa vs. Divisional Manager, United Insurance Company Ltd. AIR 2010 SUPREME COURT 2630.

¹² Leela Gupta vs. State of Uttar Pradesh, 2010 AIR SCW 5601.

have been of various kinds, extension of common law liability, insurance for liability and social security, or variants or combinations of one or more of these three.”¹³ This issue has been elaborately considered by the Supreme Court in the case of “State of Haryana vs. Jasbir Kaur¹⁴. It was observed by the Court that Tribunals constituted under the Motor Vehicles Act and as specified under Section 168 are required to determine the quantum of compensation by making an award. Such compensation must, in nature, be "damages" which seem "just and reasonable" to the Tribunal.

The Supreme Court took cognizance of the fact that cases of loss of limbs or even loss of life cannot be precisely evaluated in terms of money. Compensation must necessarily be fair and reasonable, but it should not be punitive or, for that matter, a bonanza for the victim.¹⁵ This means that compensation has to be "just" according to the law—neither merely nominal nor exorbitant. The Court underscored the fact that in determining what constitutes "just" compensation, Tribunals and courts have to take into account several factors and surrounding circumstances peculiar to each case. There could never be any universal rule for measuring the value of human life or physical abilities, and compensation could not be calculated with arithmetical exactitude. On the other hand, each case must be judged on its particular facts and any unique or special features that apply.”

The word "just" compensation means wide discretion to the Tribunal, which must, however, be exercised judiciously, i.e., on rational and equitable principles and not on arbitrary decisions or speculative guesswork. To the word "just", the connotation of fairness, equity, and reasonableness is attached. An award which is not fair or equitable cannot be regarded as just.¹⁶

This principle of just compensation has been enlarged by the Supreme Court in the judgment of Yadava Kumar vs. Divisional Manager, National Insurance Co. Ltd¹⁷. The Court, in that case, has held that on matters of compensation under accident cases, the High Court and the Tribunal should have an approach of compassion while estimating the compensation. The Court took into consideration the fact that the appellant was a painter whose livelihood

¹³ Law commission of India 51st report on compensation for injuries caused by automobiles in Hit and Run cases September 1972.

¹⁴ State of Haryana vs. Jasbir Kaur AIR 2003 SUPREME COURT 3696.

¹⁵ Akshat Chaudhary, 'An Analysis of Operational Aspects of Motor Vehicle Jurisprudence: A Comparative Perspective' (2020) 3 Int'l JL Mgmt & Human 69.

¹⁶ Helen C. Rebello v. Maharashtra SRTC AIR 1998 SUPREME COURT 3191.

¹⁷ Yadava Kumar vs. Divisional Manager, National Insurance Co. Ltd AIR 2010 SUPREME COURT 3741.

depended on his physical labor, and the injuries sustained greatly affected his earning ability. Evidence supported the position that the injuries were inevitable in leading to loss of income by showing that the appellant's capacity to work as a painter had been impaired. It was, therefore, held that it is the statutory mandate of the Tribunal and the Court to evaluate the amount of "just compensation." The evaluation thereupon is not intended for any financial gain and must always be inspired by justice and fair play. The terminology "just compensation" demands a broad yet reasonable approach to the principles of good conscience so that the culmination of the case can be just and fair.

The Court also drew a distinction between compensation and damages. It is true that the word "compensation" may include an award of damages¹⁸, but it is of wider import. Damages are awarded in respect of a particular injury sustained; compensation should make good the wrong done to the victim. One of the key purposes of compensation is to restore the position before the injury took place to the injured party. This is done by awarding financial redress. In computing for the compensatory award, the approach should thus be broader than that adopted for damages. The Court held that though the compensatory or actual damages will not have a rigid or mathematically exact computation, on the other hand, it cannot dispense with principles guiding its determination, which must be fair and reasonable, and reflects truly the nature of the loss sustained and assessed with a broad viewpoint or parameter.¹⁹

What emerges from these cases, therefore, is the guidance from the Supreme Court regarding the requirement of balance in awarding compensation. In other words, while compensation must be adequate to alleviate the financial burden of an injury or loss, it should not be so liberal as to be unjust or unfair.²⁰ This means ensuring that the victim or the loved ones of the victim are given a settlement that is fair and reasonable and comes close to what they have been through. It is not necessarily for unreasonable reaping, if that were the case, in the compensation process.

This power must therefore be exercised bearing in mind the facts of each case to ensure that compensation awarded does indeed reflect the nature and extent of the loss, subject always

¹⁸ Jai, Janak Raj, *Compensation Under the Motor Vehicles Act: A Critique*. Daya Books, 2002.

¹⁹ Helen C. Rebello v. Maharashtra SRTC AIR 1998 SUPREME COURT 3191.

²⁰ Mundrathi, Sammaiah, *Law of Compensation to Victims of Crime and Abuse of Power*, (Deep & Deep Publications., New Delhi 2002), 1.

to the principles of equity and fairness.²¹ The courts have thus been at pains to stress that though compensation cannot be evaluated with arithmetical accuracy, it must nonetheless be assessed with a judicious and compassionate approach guided by the principles of just and equitable relief for the victim of the accident.

PRINCIPLES TO DETERMINE COMPENSATION IN CASES OF DEATH

The principles can be broken down into three steps²²:

Step 1 (Ascertaining The Multiplicand)

The deceased's annual income should be calculated first. Then deductions are made from that income to account for the deceased's personal and living expenses, which, if not spent on themselves, would have augmented the dependents' income. The multiplicand represents the financial contribution that the deceased would have made to his dependents.

Step 2 (Ascertaining The Multiplier)

The next step will be to select a proper multiplier, depending on the age of the deceased and the expected period the deceased would have spent in active employment. In other words, the multiplier represents how many more years the deceased would have supported his family.

Step 3 (Actual Calculation)

The last step will be calculating the total compensation;

- i). "Loss of Dependency: The same is multiplied with the multiplicand selected so as to bring out the total financial loss that the dependents have suffered; referred to as "loss of dependency to the family."
- ii). Further Compensation: An amount, usually around Rs. 10,000 might be awarded for the loss of property. An additional amount of Rs. 10,000--Rs. 20,000 might be awarded under the loss of consortium in case the deceased left the spouse surviving him.
- iii). No Compensation for Non-Economic Loss: The court lays down that no compensation

²¹ Hardeo Kaur and others Vs. Rajasthan State Transport Corporation and another 1992 AIR 1261.

²² National Insurance Co. V Pranay Sethi, AIR 2017 SUPREME COURT 5157.

should be granted for any intangible problems suffered by the legal heirs of the deceased.

iv). Funeral and Other Losses: Expenses on the funeral, transporting the body & any medical expenses prior to the death of the deceased should also be included therein.

v). Deduction of Personal Expenses: The personal and living expenses of the deceased towards the end have to be deducted from the gross sum arrived at to measure the final compensation amount.”

The skills and education of the deceased victim are quite significant in calculating the quantum of compensation. It must be kept in mind that the skill of a deceased, standard of living, and educational qualifications must be considered while deciding the compensation under the Motor Vehicle Act. The higher the skill, the more should be the compensation. Skilled and unskilled labor and their classification are necessary in order to arrive at a just compensation²³.

METHODS TO DETERMINE COMPENSATION

Two broad methods are in vogue for calculating compensation in case of death at work:

Unit Method

Under the unit method, the adult is given a count of two units, and the child counts for one unit. The deceased's income is distributed under the total number of units, the value of the deceased units is deducted from the total, and the remaining is taken to be the datum figure for compensation. Such a method becomes particularly helpful if the deceased has a low income.

2nd Method

The second method is to take off one-third of the deceased's income which should be deemed as personal expense. If the remuneration of the deceased was very high, then it might include a deduction for income tax. Where the claimant has succeeded in respect of any business or agriculture to which the deceased was engaged, then, while calculating the datum figure, consideration must be given to the value of the services rendered by the deceased.

²³ Gopinath B, Jagnoor J, Nicholas M, Blyth F, Harris IA, Casey P, et al. Prognostic indicators of social outcomes in persons who sustained an injury in a road traffic Injury (2015) Int'l JI of law 15.

This was subsequently followed by the Himachal Pradesh High Court in *H.P Road Transport Corporation vs. Pandit Jai Ram*²⁴, although the Supreme Court subsequently clarified in the matter of *Santosh Devi vs. National Insurance Company Ltd*²⁵ that the subtractions of personal expenses need not be mechanical. That is to say, the court has to keep in mind the realism of life while imagining the financial commitments of the deceased in determining personal expenses.

SELECTION OF MULTIPLIER

The right multiplier has to be selected on the principles laid down in “*Sarla Verma vs. Delhi Transport Corporation*”²⁶. The selection of the multiplier depends on the age of the person who died or the claimants, whichever is higher, and the number of dependents. However, the table of multipliers shall not be applied blindly.

The court in the case of *Naina Thakur vs. Punjab Women's Welfare Colleges Board*²⁷ observed that the multiplier of selection has to be flexible and the selection of multiplier needs to be made in a way that suits the given circumstances of a case. For the death of a person whose age was between 41 to 45, for instance, the normal selection of multiplier is 14. However, if the deceased left behind a widow and kids, the tribunal correctly increased the multiplier to 15. So also, if the claimants are adult sons, not dependent on the deceased, the multiplier can be reduced. Rule set in case of *Sarla Verma* can be distinguished from, where the income of dead had to go up.”

²⁴ *H.P Road Transport Corporation vs. Pandit Jai Ram* AIR 1980 HP 16.

²⁵ *Santosh Devi vs. National Insurance Company Ltd* 6 AIR 2012 SUPREME COURT 2185.

²⁶ *Sarla Verma vs. Delhi Transport Corporation* AIR 2009 SUPREME COURT 3104.

²⁷ *Naina Thakur vs. Punjab Women's Welfare Colleges Board* HLJ 2009 (HP) 1449.

| AGE OF DECEASED, (COLUMN 1) | MULTIPLIER SCALE IN TAYLOR CHANDRA AS CLARIFIED IN CHARLIE, (COLUMN 4) |
|-----------------------------|--|
| Up to 15 yrs | - |
| 15-20 yrs | 18 |
| 20-25 yrs | 18 |
| 26-30 yrs | 17 |
| 30-35 yrs | 16 |
| 36-40 yrs | 15 |
| 41-45 yrs | 14 |
| 46-50 yrs | 13 |
| 51-55 yrs | 11 |
| 56-60 yrs | 09 |
| 61-65 yr | 07 |
| Above 65 yrs | 05 |

Image: <https://hpsja.nic.in/>

FUTURE EARNINGS ENHANCEMENT

The Supreme Court examined the incidence of future income growth in Sarla Verma's case²⁸. The court recognized the fact the income of an employee is bound to appreciate with time and advised that a factor for future earning potential should be considered in arriving at the multiplicand. In particular, it proposed that in case the deceased was in confirmed employment and below 40 years, their actual salary has to be increased by 50% to take care of the future prospects. It should be a 30% addition if the dead lay between the ages of 40-50.

While making the above observation in “K.R Madhusudhan vs. Administrative Officer²⁹”, the court opined that there could be an escape from the "rule of thumb" laid down in Sarla Verma, but only in cases where sufficient reasons could be shown that the income of the deceased was likely to grow in future. So, in the case of death where the age is more than 50 years but a clear case of identifiable increase in income could be shown, the court permitted the enhancement in the amount of compensation.”

It held that in cases where the deceased was self-employed or had fixed salaries with no provisions for an annual increase, a 30% increase in the total income during the passage of

²⁸ Sarla Verma vs. Delhi Transport Corporation AIR 2009 SUPREME COURT 3104.

²⁹ K.R Madhusudhan vs. Administrative Officer AIR 2011 SUPREME COURT 979.

time should also be awarded when calculating compensation. The court ruled that the increased cost of living is a phenomenon that affects all without any exception, and one cannot say for sure that a person's income will not increase at all in his life. Therefore, the same rule of thumb for the increase in future income has to be applied to the persons who are self-employed when apportioning compensation.³⁰

COMPENSATION ON DEATH OF A CHILD

The question of compensation in cases of the death of a child is peculiar because children are unlike adults, who usually have jobs and contribute positively to the wallets of their families. In this case, this situation makes the conventional type of compensation awarded for loss of dependency very hard to implement. On the other hand, the death of a child undoubtedly means a great loss for the parents, who are entitled to compensation for such loss.³¹

Case of R.K. Malik vs. Kiran Paul³²

The Supreme Court reviewed the award of compensation in cases of the death of children. The Court observed that not only has pecuniary loss to the parents to be taken into consideration but also the future prospects of the child have to be taken into consideration. There the Court reiterated that compensation must provide for the loss of future potential, though at the time of death, he might not have been earning anything.

In the said case, the quantum of compensation was awarded exorbitantly based on the future prospects of the children, who were stated to be studying in an expensive school and having promising futures. Even though the award was huge, the court was very clear that this was not because of the financial status of the children's families, but more as a reflection of the loss of life and the pain and suffering of the families as common to all, regardless of their economic background.

The *Lata Wadhwa vs. the State of Bihar*³³ used the concept of "conventional compensation" for the non-pecuniary compensation relating to pain and suffering on the grounds of loss of life. The court nailed or identified Rs. 50,000 as a conventional figure for such

³⁰ Santosh Devi vs. National Insurance Company Ltd. 2012 ACJ 1428.

³¹ P. Ishwar Bhat, *Fundamental Rights: A Study of their Interrelationship*, (Eastern Law House, 2004), 256.

³² R.K. Malik vs. Kiran Paul 2009 ACJ 1924.

³³ *Lata Wadhawa vs. State of Bihar* AIR 2001 SUPREME COURT 3218.

compensation. This was intended to already factor in the loss of expectancy of life and the concomitant sufferings and pain, which factor should apply as a rule across the board with regard to deaths of children unless peculiar circumstances called for a deviation from this method. The court also applied the multiplier method to compute the compensation. In the case of the age group between 5 to 10 years, the court awarded Rs. 1.5 lakhs for pecuniary compensation and Rs. 50,000 more towards conventional compensation. For the children of the age 10 to 18, the overall compensation awarded with conventional compensation amounted to Rs. 4.10 lakhs. This approach could be justified on the ground that each child was going to substantially contribute to his family in the future.

Case of M.S. Grewal vs. Deep Chand Sood³⁴

In this case, whereby 14 students had drowned in a stream due to the negligence of the teaching staff. While awarding compensation, the Supreme Court in that case had laid emphasis on just compensation, using the multiplier method for determining the value of future annual dependency. In that case, compensation of Rs. 5 lakhs to each claimant had been awarded and has now been raised as justified in the circumstances of the case.

Supreme Court, however, went on to observe that while the children in the instant case were from affluent backgrounds, the compensation amount was not awarded solely because of their economic status.

FUTURE PROSPECTS

One of the central arguments advanced by the appellants in the case of R.K. Malik³⁵ was that there was a failure of the lower courts to take into account the prospective future bright chances of the deceased children while awarding compensation.

The Supreme Court recognized this lapse and went on to reiterate what it had clearly stated before, that future prospects are a relevant factor to be considered in the calculation of compensation. It referred to its previous judgments in the cases of General Manager, Kerala S.R.T.C. v. Susamma Thomas³⁶, Sarla Dixit v. Balwant Yadav³⁷, and the Lata Wadhawa

³⁴ M.S. Grewal vs. Deep Chand Sood AIR 2001 SUPREME COURT 3660.

³⁵ R.K. Malik vs. Kiran Paul 2009 ACJ 1924.

³⁶ General Manager, Kerala S.R.T.C. v. Susamma Thomas 1994 AIR 1631.

³⁷ Sarla Dixit v. Balwant Yadav 1996 AIR 1274.

³⁸case, all of which had held that future prospects cannot be denied in awarding compensation.

In the Malik case, the court commented that the children in question were doing very well in their studies and attending a prestigious school. This could suggest they had very good futures ahead of them. Since it is not easy to quantify the loss of children's prospects, the compensation, when awarded in such a case, must be taken into consideration. In such a scenario, the court ruled that depriving compensation for prospects was unjust and went against established principles of law.

DEATH OF HOUSEWIFE

“In India, the Courts have recognized that the contribution made by the wife to the house is invaluable and cannot be computed in terms of money. A wife/mother does not work by the clock. She is in constant attendance of the family throughout the day and night unless she is employed and is required to attend the employer's work for particular hours. A housekeeper or maidservant can do the household work, such as cooking food, washing clothes and utensils, keeping the house clean, etc., but she can never be a substitute for a wife/mother who renders selfless service to her husband and children.”³⁹

In Rakesh Kumar vs. Prem Lal⁴⁰ the High Court was “in full agreement with the proposition that the children and husband of the deceased are entitled to compensation on the ground of the loss of the services of the deceased which were no doubt gratuitous, for the reason that the members of the Arun Kumar Agarwal vs. National Insurance Company, the family can replace such gratuitous services only by incurring expenditure and that while estimating the “services” of the deceased housewife, a narrow meaning should not be given to the meaning of the word “services” but should be construed broadly”.

In Sher Singh vs. Raghubir Singh⁴¹, the Tribunal initially assessed the family's dependency on the housewife at Rs. 600 per month, which was equivalent to the salary of a maidservant. However, the High Court disagreed with this assessment, stating that the work performed by a wife and mother cannot be equated with that of a maidservant. The court highlighted

³⁸Lata Wadhawa vs. State of Bihar AIR 2001 SUPREME COURT 3218.

³⁹ Kotiswaran, Prabha. "An Ode to Altruism: How Indian Courts Value Unpaid Domestic Work." (2021), *Econ. & Pol. Weekly* 56.36, 45-52.

⁴⁰ Rakesh Kumar vs. Prem Lal 1996 (1) Sim. L.C. 448 (DB).

⁴¹ Sher Singh vs. Raghubir Singh, 2006(1) Cur, L.J. (HP) 15.

that no servant can work 24 hours a day for such a meager salary, and more importantly, a servant cannot replace the emotional and moral support provided by a wife and mother. Consequently, the High Court increased the estimated dependency to Rs. 1,500 per month, or Rs. 18,000 per year, recognizing the true value of the housewife's contributions.

In *Arun Kumar Agarwal vs. National Insurance Company*⁴², The Supreme Court elaborated on the issue of compensating for the loss of a housewife. The court acknowledged that it is difficult to quantify the services rendered by a wife and mother, as they go beyond mere physical tasks. The loss of personal care and attention provided by a housewife is irreplaceable, and therefore, adequate compensation must be awarded to the dependents. The Supreme Court referred to the legislative guidelines and judicial precedents in determining compensation for the loss of a housewife. Under Section 163A of the Motor Vehicles Act, 1988, the notional income of a non-earning person, including a housewife, was fixed at Rs. 15,000 per annum. In cases where the surviving spouse is employed, the compensation can also be calculated as one-third of the surviving spouse's income. However, the court clarified that while Section 163A provides a guideline, it should not be strictly applied in all cases. Instead, a reasonable approach should be adopted, taking into account various factors such as the age of the deceased, the financial status of the family, and the specific circumstances of the case. The court suggested using the multiplier method, to calculate the compensation. Additionally, the court emphasized that the criteria specified in clause (6) of the Second Schedule of the Motor Vehicles Act should be considered, along with guidance from the judgment in *Lata Wadhwa's* case.

The Supreme Court also addressed the approach adopted by different benches of the Delhi High Court, which relied on the minimum wages payable to a skilled worker to compute compensation for the loss of a housewife. The court criticized this approach as unrealistic, arguing that it is inappropriate to compare the gratuitous services of a housewife with the work of a skilled worker. The court emphasized that the services provided by a housewife go far beyond the tasks performed by an employee, as they involve continuous and selfless care for the family. Therefore, compensation should reflect the true value of these services, rather than being limited to the wages of a skilled worker.

By adopting a broad and holistic approach to compensation, Indian courts have set a

⁴² *Arun Kumar Agarwal vs. National Insurance Company*

precedent that ensures justice for the dependents of a deceased housewife. This approach not only recognizes the significant contributions made by housewives but also upholds the principle of fairness and equity in awarding compensation.

CONCLUSION

The way in which the legal regime for compensation for personal injuries and deaths by accident, especially related to motor vehicle incidents, further evolved, again underlines the fact that in Indian legalism, justice and practicality have gone hand in glove. From the concept of the Fatal Accidents Act in 1855 to the comprehensive reforms brought on by the Motor Vehicles Act in 1988 and its further amendments, it has been a continuous response legislatively to the needs of the victims and their families, struggling under the tight constraints of quantifying human suffering and loss.

Most significantly, the common law was wanting in relation to the right to sue for damages in the event of death, which those families or survivors had. This remained a major gap until the arrival, to a certain degree, of statutory regimes providing mechanisms to compensate people for personal injuries and fatalities sustained through accidents. The 1988 Act consolidated and sometimes amended prior legislation in this area. It was a step toward regulating motor vehicle usage and ensuring that there are financial redresses to their victims and dependents. Reforms of the Act in 1994, 2019, and 2023 speak for themselves on legal reform, which is dynamic in nature, continuing to better serve the changing needs of society and meet newly arising challenges of compensation.

Claimants under this doctrine of fault liability have to prove their case of negligence for the award of its damages. The claimants need, therefore ascertainably to establish that the respondent has committed a breach of duty. There is no statutory definition of negligence but has been defined by case laws as the doing or failure to do something which a reasonable and prudent person would or would not do.

The principles underlying compensation assessment require sensitivity in the approach to quantifying losses that are non-measurable entities, like the loss of life or limb. Courts have awarded compensation for pecuniary losses, which includes medical expenses and lost earnings, and non-pecuniary elements to compensate for funeral costs and loss of consortium. Thus, the assessment of compensation becomes an estimation process in which the financial effects as well as the intrinsic problem of evaluation in human experiences are

incorporated.

In sum, the system of compensation for death and personal injury in courts implies an interest to do justice by Indian courts but not at the cost of realism. There are no easy human losses or sufferings, and the principles and methodologies that infuse legislative reform and judicial interpretation provide the underpinnings to address such complexities. The jurisprudence on compensation evolves but remains pointed toward fairness and compassion when death or severe personal loss has occurred.

