* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Reserved on : 12th September, 2018***
Pronounced on : 27th September, 2018

\+ **LPA 379/2017**

RAJEEV SINGHAL & ANR ..... Appellants
Through: Mr. Uday Gupta with Ms. Shivani Lal, Mr. Hiren Dasan and Mr. M.K. Tripathi, Advocates

versus

MCD (EAST DELHI MUNICIPAL CORPORATION) & ANR ..... Respondents
Through: Mr. Jagdish Sagar, Advocate for R-1.
Mr. Manish Srivastava and Ms.Moulshree Shukla, Advocates for R-2.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

JUDGMENT

RAJENDRA MENON, CHIEF JUSTICE

1. Seeking exception to an order passed by the learned writ Court in W.P.(C) 6349/2014 dismissing the petition filed, claiming compensation on account of death of appellants' 14 year old son, Master Akshat Singhal, this appeal has been filed under Clause 10 of the Letters Patent.

2. Appellants herein are the parents of Master Akshat Singhal, a 14 year old boy, who was victim of an unfortunate incident that occurred in the evening of 05.07.2014 when Akshat with his father (appellant No.1 herein) had gone to Sanjay Park, New Govind Puri to play with his

friends. While Akshat was playing with his friends, his father went off for a walk around the park. The children were playing cricket and in the course of playing, Akshat was required to fetch the ball when it went to a place in one corner of the park under a high mast light pole. While picking up the ball, hands of Akshat touched an electric cable which was lying there. Consequently, he was electrocuted and died on the spot. Even though he was removed to the hospital, he was declared dead on reaching the hospital. An FIR bearing No.414/2014 was lodged with the local police station. An autopsy report was prepared and in the course of investigation it was revealed that the cause of the death was ventricular fibrillation as a result of electrocution.

3. Claiming compensation for the death of their child, the writ petition in question was filed and it was the case of the appellants before the writ Court that the park is maintained by the East Delhi Municipal Corporation (EDMC) – respondent No.1 herein and inside the park and within its peripheries, all electrical installations have been erected by respondent No.2 – BSES *inter alia* contending that the respondents are jointly responsible for the negligence which resulted in death of their only son. The writ petition in question was filed claiming a compensation of Rs.45 lakhs with interest and other benefits.

4. Various submissions were made before the writ Court. Counter affidavits were filed by both the respondents. The EDMC, respondent No.1 came out with a stand that lighting around the park and inside the park is the responsibility of the electricity distribution company BSES, respondent No.2, who has to maintain all electrical installation and connection and therefore respondent No.1 sought exoneration from the

charge of negligence and attributed the entire liability on respondent No.2 by producing various reports and various other inquiry documents.

5. It was tried to be established by respondent No.1 from these reports that the PVC wires belong to BSES and they were responsible for its maintenance and respondent No.1 pleaded exoneration from the liability.

6. On the other hand, respondent No.2 contends that it was the responsibility of the EDMC to maintain the park, installation of electrical fittings etc. inside the park and the only responsibility of the electricity company was only to provide electricity to the park and the consequential responsibility of maintaining the poles, installation, wires etc. within the park was of the EDMC and the electricity supply company in no way can be saddled with any responsibility for maintaining the park.

7. Various objections were raised and the case before the writ Court was with regard to liability, *inter se* between the respondents. The learned writ Court examined various aspects of the matter including the Accidents Committee's report dated 09.07.2014, the documents and other material that has come on record and in para 14 of its judgment recorded the following findings:

> "*14. Noting the conflicting stands of respondent No. 1 and respondent No. 2, this Court is of the firm view that disputed questions of fact have arisen. There is no doubt that the victim had succumbed to his death on the fateful day and the cause of death was electrocution. This electrocution had taken place in Sanjay Park. The negligence appears to be writ large. Till this point of time, all facts are undisputed."*

8. Having held that the negligence appears to be writ large, from para 15 onwards, the learned writ Court goes on to decide the *inter se* dispute between respondent No.1 and respondent No.2 with regard to negligence

and finally comes to the conclusion that in view of the *inter se* dispute between the respondents, the writ petition under Article 226 of the Constitution of India is not maintainable and by placing reliance on various judgments, particularly, the judgment of the Supreme Court in the case of ***Chairman,Grid Corporation of Orissa Ltd. and Ors. v. Sukamani Das (Smt.) & Anr.*** (1999) 7 SCC 298, dismissed the writ petition holding that, disputed questions of fact that have come on record, the same cannot be adjudicated by the writ Court. Accordingly, the writ petition has been dismissed.

9. Learned counsel appearing for the appellants took us through the judgments rendered in the case of ***Chairman, Grid Corporation*** (*supra*), the judgment of the Supreme Court in the case of ***D.K. Basu v. State of W.B.*** (1997) 1 SCC 416, a judgment of this Court in the case of ***Ram Kishore v. Municipal Corporation of Delhi*** 2007 (97) DRJ 445, ***Rudal Shah v. State of Bihar*** (1983) 3 SCR 508, ***Nilabati Behera v. State of Orissa*** (1993) 2 SCC 746*;* ***MCD v. Subhagwanti & Ors.*** AIR 1966 SC 1750 and various other judgments to contend that in this case, fact with regard to accident occurring due to the negligence of the respondents is established. The learned writ Court admits the same, in spite thereof, on account of *inter se* disputes between the respondents has dismissed the writ petition.

10. It is the case of the appellants before us that merely on account of the *inter se* disputes between the respondents, the learned writ Court could not have dismissed the writ petition. On the contrary the petition should have been allowed, compensation awarded and liability fastened jointly on both the respondents.

11. Taking us through the judgments rendered in the case of ***Darshan*** (*supra*), ***Ram Kishore*** (*supra*) and another judgment of this Court in ***Swaran Singh v. Union of India & Ors.*** 2011 (123) DRJ 673, it was argued that in the backdrop of the negligence proved in the present case merely because of a dispute *inter se* raised between the EDMC and the BSES, electricity supply company, claim of the petitioners could not be rejected. Thereafter, learned counsel placed reliance on the following judgments of the Supreme Court to canvass the contention as to how and in what manner the compensation should be assessed and granted. Reliance is placed upon the judgments rendered in the case of ***M.S. Grewal v. Deep Chand Sood*** (2001) 8 SCC 151, ***Lata Wadhwa and Ors. v. State of Bihar & Ors.*** (2001) 8 SCC 197, judgment of this Court in the case of ***Varinder Prasad v. BSES Rajdhani Power Limited and Ors.*** 2012 (127) DRJ 370, ***Kamla Devi v. Government of NCT of Delhi & Anr.*** 2004 online Del 721 and an unreported judgment dated 03.08.2018 in W.P.(C) 12326/2015 ***Court on its own Motion v. Government of NCT of Delhi & Ors.*** to say that the compensation should be determined in accordance to the law laid down in the aforesaid cases and an appropriate writ issued directing the respondents to pay the compensation.

12. Learned counsel appearing for respondent No.1 and counsel appearing for respondent No.2 argue that in this case there are serious disputes on fact and therefore such a dispute cannot be adjudicated in a petition under Article 226 of the Constitution and in relegating the petitioners to take recourse to the remedy, alternately available, no error has been committed by the learned writ Court. Taking us through in detail to the principles laid down by the Supreme Court in para (8) of the judgment in the case of ***Chairman, Grid Corporation of Orissa Ltd.***

(*supra*), it was argued that the writ petition in the present case was not maintainable. An unreported judgment by Single Judge of this Court in W.P.(C) 2327/2008 was also relied upon to say that in the backdrop of the disputed questions of facts involved in the matter, the petition was not maintainable. Thereafter, both the respondents No.1 and 2 refer to certain documents available on record to canvass their rival contentions to say that they are not responsible for the accident.

13. Respondent No.1 attributes the negligence to respondent No.2 on the ground that it is the liability and responsibility of respondent No.2 to maintain all electrical installation and equipments within the park and therefore respondent No.1 cannot be saddled with the liability for payment of compensation. *Per contra*, respondent No.2 took us to various documents available on record, particularly the electricity bill raised with the respondent No.1 to point out that only electricity duty with regard to supply of electricity is being charged and as far as maintenance of electrical installation and equipments within the park are concerned, no charge is made by the electricity company and maintenance of the electrical installation and equipment within the park is the responsibility of respondent No.1 and therefore respondent No.2 seeks exoneration from liability on these grounds.

14. We have heard the learned counsel appearing for the parties at length and have taken note of various contentions canvassed before us. A perusal of the material and documents available on record and various reports like the inspection report dated 24.07.2014 prepared by the Engineer of respondent No.1, the accident committee report dated 09.07.2014, the FIR and all other documents available on record

including the photographs with regard to the accident and the post-mortem report clearly established the following facts:

(a) The accident in question took place on the date of the incident i.e. 05.07.2014;

(b) that the accident resulted in death of Master Akshat Singhal;

(c) Master Akshat was playing in the park when the accident took place; and

(d) he came in contact with a live electricity cable which was the reason for the accident and the autopsy report records of finding that cause of death is the result of electrocution.

15. Apart from the aforesaid facts being established, it is also established that the accident took place because of the negligence in the matter of maintenance of the electrical installation within the park. In the backdrop of aforesaid admitted fact, the learned writ Court analysed various aspects of the matter and as detailed hereinabove in para (14) came to the conclusion that Akshat, no doubt, was the victim who had succumb to death on the fateful day due to the electrocution which took place in the Sanjay Park. The negligence appears to be writ large and these facts are not disputed. Having held so, only because there was an *inter se* dispute between respondents No.1 and 2, as to who amongst them is negligent, the writ Court refused to exercise its jurisdiction under Article 226 of the Constitution of India for holding that there are disputed questions of facts and for doing so relied upon the judgment in the case of ***Chairman, Grid Corporation of Orissa*** (*supra*).

16. In our considered view, in doing so, the learned writ Court wholly misdirected itself and committed an error of law and fact in dismissing

the writ petition. The judgment in the case of ***Chairman, Grid Corporation of Orissa*** (*supra*) will have no application in the facts and circumstances of the present case when negligence in the maintenance of electrical equipments and installation within the park was proved and death of the child due to electrocution was also proved. In the case of ***Chairman, Grid Corporation of Orissa*** (*supra*), the very fact about the negligence resulting in occurrence of the accident was itself in dispute.

17. In the present case, occurrence of the accident, which was a result of the negligence is established. It is only the question as to who between the respondents is negligent which is the disputed question of fact. That being so, the law laid down in the case of ***Chairman, Grid Corporation of Orissa*** (*supra*), in our considered view, will have no application in the facts and circumstances of the case. On the contrary, the question has been considered and answered in favour of the petitioner in the case of ***Varinder Prasad*** (*supra*) by a Bench of this Court.

18. In the case of ***Varinder Prasad*** (*supra*) also similar situation was in existence. In that case also, a boy aged 10 years died on account of a shed (*chhajja*) of a house situated in DESU Colony, Najafgarh collapsing and falling on him. In that case also negligence in maintenance of the *chhajja* was proved but there was *inter se* dispute between the Delhi Transco Limited and various other government authorities which resulted in an *inter se* dispute between them with regard to the question of negligence and while taking note of the aforesaid situation, relying upon earlier judgments of this Court and the Supreme Court in the case of ***D.K. Basu*** (*supra*), ***Neelabati Behera*** (*supra*), ***Rudal Shah*** (*supra*), ***Ram Kishore*** (*supra*) and ***Darshan*** (*supra*), it has been held by this Court that once occurrence of the incident, factum of death of the victim consequent

to negligence are established, merely because there is an *inter se* dispute between the respondents as to who is responsible for the accident or the negligence, the writ petition could not be dismissed. The law laid down in the case of ***Chairman, Grid Corporation of Orissa*** (*supra*) was considered and after taking note of various judgments, the learned Court in the case of ***Varinder Prasad*** (*supra*) in para (31) has dealt with the issue in the following manner:

> **"** *31. Consequently, I have no hesitation in concluding that the present being a case of glaring and evident negligence, to which the maxim Res Ipsa Loquitor applies, the present writ petition under Article 226 of the Constitution of India is maintainable as the said negligence has led to complete infraction of the fundamental right to life of the deceased. The inter se dispute between the two respondents, i.e. respondent nos.1 and 2, would not come in the way of the petitioners for claiming compensation for breach of the fundamental rights of the deceased Ajay Kumar. The tendency of the public authorities, when more than one of them is involved, to shift the burden on each other is not new. Same was the position in Darshan (supra), and Ram Kishore (supra) and Swarn Singh (supra). The said inter se dispute was held, not be disentitle the petitioner from claiming relief under Article 226 of the Constitution of India, as negligence, resulting in breach of fundamental rights was held to have been established in each of these cases. The Court shall, however, prima facie examine the aspect of responsibility, only with a view to fix the responsibility of one of the respondents to pay the awarded compensation, leaving it open to the respondents to battle out and settle their inter se liability in appropriate proceedings."*

19. From the aforesaid, it is clear that merely because there is an *inter se* dispute between the respondents, it would not disentitle the petitioners from claiming the relief under Article 226 of the Constitution of India as

negligence resulting in breach of Fundamental Rights is held to be established. Even though the judgment in the case of ***Varinder Prasad*** (*supra*) has been rendered by Single Judge of this Court but the said judgment refers to various judgments not only of Supreme Court but also of this Court and once in this case the finding recorded is to the effect that the accident took place because of negligence in the matter of maintenance of electrical equipments and it is also proved that the accident was a consequence of such negligence, merely on account of *inter se* dispute between the parties, namely, respondent No.1 and respondent No.2, in our considered view, the petitioner could not be non-suited or their petition is dismissed. Once the factum of accident having occurred resulting into death of the child and the accident being a consequence of negligence are established, the learned writ Court should have, in our considered view, proceeded to assess the compensation and awarded it to the appellants instead of dismissing the writ petition. In fact, the *inter se* dispute on facts between the respondents cannot be a ground for dismissing the writ petition. On the contrary, as has been done in various cases including the case of ***Varinder Prasad*** (*supra*), the Court should have held both the respondents jointly and severally liable for payment of compensation, imposed 50% liabilities on them and thereafter left it to them to work out their *inter se* dispute, particularly so when both the respondents are functioning under the control of the Government.

20. Accordingly, in dismissing the writ petition on the ground that there are disputed questions of fact, in our considered view, the writ Court has committed a grave error which cannot be upheld by us. Accordingly, we allow this petition by holding that the writ petition was

maintainable and merely because there is an *inter se* dispute between the respondents, the right of the petitioners (appellants herein) to claim compensation cannot be denied. Having held so, now the question would arise as to how and in what manner quantification of the compensation in the present case can be undertaken and how the compensation can be arrived at. In this regard, we may refer to the principle of law laid down in the case of ***Lata Wadhwa*** (*supra*) followed subsequently in the case of ***M.S. Grewal*** *(supra),* the formula and criteria laid down in the case of ***Kamla Devi*** (*supra*), so also in the case of ***Varinder Prasad*** (*supra*) and the compensation can be worked out. In the case of ***M.S. Grewal*** (*supra*), relying upon an earlier judgment of the Supreme Court in the case of ***C.K. Subramania Iyer and Others v. T. Kunhikuttan Nair*** (1969) 3 SCC 64, certain guidelines for the purpose of assessment of compensation has been laid down by the Supreme Court and in para (8) the principle laid down reads as under:

> *"8. Incidentally, this Court in C.K. Subramania Iyer and Others v. T. Kunhikuttan Nair and Six Others [(1969) 3 SCC 64] while dealing with the matter of fatal accidents laid down certain relevant guidelines for the purpose of assessment of compensation. Paragraph 13 of the Report would be relevant on this score and the same is set out herein below:*
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> > *13. The law on the point arising for decision may be summed up thus: Compulsory damages under Section 1-A of the Act for wrongful death must be limited strictly to the pecuniary loss to the beneficiaries and that under Section 2, the measure of damages is the economic loss sustained by the estate. There can be no exact uniform rule for measuring the value of the human life and the measure of damages cannot be arrived at by precise mathematical calculations but*

the amount recoverable depends on the particular facts and circumstances of each case. The life expectancy of the deceased or of the beneficiaries whichever is shorter is an important factor. Since the elements which go to make up the value of the life of the deceased to the designated beneficiaries are necessarily personal to each case, in the very nature of things, there can be no exact or uniform rule for measuring the value of human life. 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. In the matter of ascertainment of damages, the Appellate Court should be slow in disturbing the findings reached by the courts below, if they have taken all the relevant facts into consideration.

(Emphasis supplied)"

21. Thereafter, in para (10), a judgment in the case of ***Taff Vale Railway Company v. Jenkins,*** (1913) AC 1 has been referred to and the principle for assessment of compensation in paras (10) and (11) has been crystallized in the following manner:

"10. The other decision relates to the case of Taff Vale Railway Company v. Jenkins [(1913) AC 1] wherein Atkinson, J. stated the law as below:

I think it has been well established by authority that all that is necessary is that a reasonable expectation of pecuniary benefit should be entertained by the person who sues. It is quite true that the existence of this expectation is an inference of fact - there must be a basis of fact from which the inference can reasonably be drawn; but I wish to express my

> *emphatic dissent from the proposition that it is necessary that two of the facts without which the inference cannot be drawn are, first, that the deceased earned money in the past, and second, that he or she contributed to the support of the plaintiff. These are, no doubt, pregnant pieces of evidence, but they are only pieces of evidence; and the necessary inference can I think be drawn from circumstances other than and different from them.*
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> *11. Be it placed on record that in assessing damages, all relevant materials should and ought always be placed before the court so as to enable the Court to come to a conclusion in the matter of affectation of pecuniary benefit by reason of the unfortunate death. Though mathematical nicety is not required but a rough and ready estimate can be had from the records claiming damages since award of damages cannot be had without any material evidence: whereas one party is to be compensated, the other party is to compensate and as such there must always be some materials available therefor. It is not a fanciful item of compensation but it is on legitimate expectation of loss of pecuniary benefits. In Grand Trunk Railway Company of Canada v. Jennings this well accepted principle stands reiterated as below:*
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> > *"In assessing the damages, all circumstances which may be legitimately pleaded in diminution of the damages must be considered. It is not a mere guess work neither it is the resultant effect of a compassionate attitude."*

22. While doing so, the Supreme Court has also taken note of the law laid down in the case of ***Lata Wadhwa*** (*supra*) wherein again the principle of ***Taff Vale Rly.*** (*supra*) has been considered and the same principle that was considered in the case of ***Lata Wadhwa*** (*supra*) has been reiterated. We may also take note of another judgment of the Supreme Court with regard to quantification of compensation in the case

of ***New India Assurance Co. Ltd. v. Satender and Ors.*** In this case also, not only the judgments as referred to hereinabove have been considered, even the case of ***Lata Wadhwa*** (*supra*) has been taken note of and the principle laid down is the same.

23. Finally, with regard to quantification of the compensation, we may take note of the principles laid down in the case of ***Kamla Devi*** (*supra*). According to the aforesaid judgment and the principles that can be culled out on the complete reading of the law laid down in the case of ***Kamla Devi*** (*supra*), we find that the courts have evolved a two-tier mechanism for assessment of compensation. The mechanism and the formula laid down have two components. The first is the conventional sum or the standard compensation and the second is the pecuniary compensation. In the case of ***Kamla Devi*** (*supra*), the mechanism laid down in para (5) reads as under:

> *"5. Let us see who are the persons responsible for the wrong. Primarily it is the terrorist who was assembling the bomb. Next, it is the State as it failed in living up to its guarantee that "no person shall be deprived of his life except according to procedure established by law". The State failed to prevent the terrorist from harming innocent citizens like Uday Singh. Terrorism itself is an indicia of the inability of the State to curb resentment and to quell fissiparous activities. Social malaise in itself is a reflection of the State's inefficiency in dealing with the situation in a proper manner. Apart from the general inability to tackle the volatile situation, in this case, the State agencies failed in their duty to prevent terrorists from entering Delhi. It was their responsibility to see that dangerous explosives such as RDX were not available to criminals and terrorists. The incident occurred as there was a failure on the part of state to prevent it. There was failure of intelligences they did not pick up the movement of this known and dangerous terrorist. So,*

it would be extremely difficult even to suggest that the State did not fail in its duty towards the late Uday Singh and his family. The other players in this sad drama could be the owner of the Guest House. Did he take due care in permitting such a dangerous person to enter and reside in the guest house? Did he maintain his guest house in good repair so as to have prevented the same from collapsing under the impact of the explosion? Then, the municipal officials may also be roped in. Did they inspect the property from time to time? Did they take any action if the building was in any way not in accordance with the regulations and law? Did they find the building to be structurally sound? Of course, these are questions which need a thorough investigation and cannot be gone into in this writ petition. But, this does not mean that without these questions being answered the petitioner is to be left without a remedy."

24. In the case of ***Ram Kishore*** (*supra*), the duty of care to be undertaken by Municipal Corporation under the Delhi Municipal Corporation Act, 1957 and the concept of strict liability has been discussed and thereafter the Municipal Corporation is held liable to compensate the family for the loss caused. In paras 16.4 and 16.5 of the aforesaid judgment, the matter has been detailed in the following manner:

"16.4 The MCD's duty of care also partakes a statutory character. In terms of Section 359 (1) of the Delhi Municipal Corporation Act, 1957 ('DMC Act') which states that the Commissioner, MCD "shall provide and maintain in proper and convenient places a sufficient number of public latrines and urinals." Section 359 (2) DMC Act further mandates that such public latrines and urinals "shall regularly be cleansed and kept in proper order." It is therefore statutorily mandated that MCD is required to provide usable and safe lavatories and to carry out periodic inspections to ensure that the public lavatories meet the minimum standard in terms of care and safety. Therefore, the MCD cannot avoid liability by merely stating that it had not constructed the lavatory. Even assuming that the MCD can take this defence,

it can at the highest in terms of the judgment in D.K. Basu claim to be compensated by the DDA in separate proceedings.

16.5. Given the nature of the use of the public space and the purpose for which it is expected to be used, the strict liability principle would be attracted and the MCD would be statutorily liable for the up-keep of the public lavatory so that it does not endanger the life and safety of its users. The decision of the Hon'ble Supreme Court in Subhagwanti also reinforces this conclusion. Therefore, this Court finds that for the death of the victim 11 year-old Mahesh, the MCD is liable to compensate the family. There are no disputed questions of fact in the case to deter the Court from arriving at this conclusion."

25. Similarly, in the case of ***Kamla Devi*** (*supra*), the responsibility of a statutory authority to take due care and diligence in maintaining public places so as to protect the life and liberty of a person has been analysed in para (5) of the judgment.

26. That being so, we have no hesitation in holding that in the facts and circumstances of the case, both the respondents have failed to discharge their public duty in the manner as expected of them in law and once we find that the respondents have failed in their duty which resulted in the accident, there is no reason as to why compensation should be denied to the victims of the suffering.

27. Having held so, now we are required to proceed to assess the compensation and for the same as already detailed in paras (22) and (23), we proceed to determine the same in accordance to the law laid down in the case of ***Ram Kishore*** (*supra*) and thereafter ***Kamla Devi*** (*supra*).

28. We find that in the present case both the appellants herein, namely, the father and the mother are earning. As per income tax returns of the

appellants which are available on record, the average annual income of the appellant No.1 (father) based on the income tax returns for the three assessment years 2010-2011 to 2012-2013 indicates that his annual average income would come to Rs.2,22,741.66. Similarly, based on the assessment of the income tax returns of the aforesaid three assessment years, the annual average income of the appellant No.2 (mother) would come to Rs.2,03,471.66. It has been held in both these cases that the annual income of the parents can be taken into consideration for assessing the annual income of a child. If that be so, we find that the total annual income of parents comes to Rs.4,26,213.32 and if this is divided by 2, we can safely conclude that the annual income of the deceased child can be assessed at Rs.2,13,106.66. As per the formula laid down for calculating the pecuniary loss, a multiplier of 15 can be applied, considering the fact that the victim was 14 years of age. In the case of ***Varinder Prasad*** (*supra*), it was noted that as the deceased *"would have grown up, his personal expenses would have only risen. The contribution to the household would not have exceeded half of the income."* Accordingly, the total annual income of the victim as indicated hereinabove, i.e. Rs.2,13,106.66, has to be divided by 2 to arrive at the same and thereafter it has to be multiplied with a factor namely 1.5 to counter inflation and erosion of the value of money and by multiplying it with 15 in terms of the multiplier provided in the second schedule of the Motor Vehicles Act, the pecuniary compensation works out to Rs.23,97,449.92.

29. As far as the standard compensation is concerned, it has to be assessed by taking the average CPI(IW) with base year 1982. In the year 1989 as per ***Kamla Devi's*** case, the Index was 171 and according to the Labour Bureau, Government of India's Notification of July, 2014, the

CPI(IW) with the base year 2001 for the year 2014 is 252 and the linking factor based on the general Index for the particular year would be 4.63. Therefore, the CPI(IW) as in July 2014 would be 252 x 4.63 i.e. 1166.76 and applying the formula for calculation of standard compensation, it would be:

Rs.50,000 x 1166.76/171 = Rs.3,41,157.89

30. By applying the aforesaid formula, the standard compensation would work out to Rs.3,41,157.89. Accordingly, we hold that the appellants are entitled to a compensation of Rs.27,38,607.81 to which they would also be entitled to the interest @ 9% per annum to be calculated from the date of the presentation of the writ petition till actual payment is made. The aforesaid amount of Rs.27,38,607.81 along with interest @ 9% per annum shall be paid jointly and severally by the respondents. At the first instance, both the respondents shall pay 50% of the aforesaid amount and thereafter they are granted liberty to work out the *inter se* dispute between them and settle their claim in accordance with law.

31. With the aforesaid observations, the appeal stands allowed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

SEPTEMBER 27, 2018
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