

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
FIRST APPEAL NO.1001 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE R.M.CHHAYA Sd/-

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	NO
2	To be referred to the Reporter or not ?	NO
3	Whether their Lordships wish to see the fair copy of the judgment ?	NO
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?	NO
5	Whether it is to be circulated to the civil judge ?	NO

HEIRS OF DECD. JIVABHAI TEJABHAI DOBARIA-Appellant(s)
Versus

GEB PASCHIM GUJARAT VIJ COMPANY LTD & 2-Defendant(s)
=====A

pppearance:

MR BHAVESH P TRIVEDI, ADVOCATE for the Appellants
MS LILU K BHAYA, ADVOCATE for Defendant(s) No. 1-3

CORAM: HONOURABLE MR.JUSTICE R.M.CHHAYA

Date : 31/03/2014

CAV JUDGMENT

- (1) This appeal under Section 96 of the Code of Civil Procedure Code, 1908 is directed against judgment and decree dated 30.08.2003 passed by the Joint Civil Judge (S.D.), Gondal in Special Civil Suit No.13 of 2000. The appellants-original plaintiffs have filed this appeal for enhancement of compensation.

- (2) Record indicates that one Shri Jivabhai Tejabhai Dobaria (hereinafter to be referred to as 'the deceased') was resident of village Ghoghavadar, Tal. Gondal, Dist. Rajkot. The deceased was a farmer and was the owner and occupier of 35 Vighas of agricultural land. That the deceased had also two bullocks and one cow. Respondent-Paschim Gujarat Vij Company Limited (PGVCL), formerly known as Gujarat Electricity Board (GEB) was supplier of electric power.
- (3) That on 12.07.1999 the deceased came in contact with live electric wire, which fell upon the deceased as well as the aforesaid three animals, as a result of which the deceased as well as the said three animals died on the spot. That the appellants-original plaintiffs, being the heirs of the deceased-Jivabhai, issued a statutory notice to the respondent-Company on 30.07.1999 and thereafter instituted Special Civil Suit No.13 of 2000 before Civil Judge (S.D.), Gondal for compensation of Rs.5,63,000/- wherein the trial Court, by the impugned judgment and decree dated 30.08.2003, ordered that the appellants-original plaintiffs are entitled to compensation of Rs.1,97,000/- with interest @ 9% p.a. from

the date of institution of the suit till realization of decretal amount. Being aggrieved by the same the appellants-original plaintiffs-heirs of the deceased, have preferred this appeal for enhancement.

- (4) It may be noted that during pendency of this appeal GEB is converted into a company known as PGVCL and, therefore, by order dated 20.09.2013 in Civil Application No.8049 of 2013, this Court (Coram: R.D.Kothari, J) permitted the appellants-original plaintiffs to substitute the respondents-original defendants. It is also worthwhile to note that the original defendants have not preferred any appeal against the impugned judgment and decree dated 30.08.2003 and have accepted the compensation as awarded by the trial Court.
- (5) Heard Mr.Bhavesh Trivedi, learned counsel for the appellants-original plaintiffs-heirs of the deceased, Ms.Lilu Bhaya, learned counsel for the respondents-original defendants and have perused the record and proceedings of the trial Court.
- (6) Learned counsel for the appellants-original plaintiffs submitted that this appeal being

an appeal for enhancement of the compensation is relatable to issue Nos.3 and 4 as framed by the trial Court below Exh.7. It was contended that the trial Court has not considered the income of the deceased properly. It was further contended that though the revenue record was produced in the form of Village Form Nos.7 x 12 and 8, being Exh.21-24 the same has not been considered by the trial Court. Relying upon the deposition of Shri Sureshbhai Jivabhai Dobarra (Exh.14) i.e. son of the deceased, it was contended that the yield from the agricultural land was much higher than what is determined by the trial Court. It was further submitted that the trial Court has also erred in considering the deceased as an agricultural labourer whereas, in reality, the deceased was himself tilling the land as owner of the land. It was therefore submitted that the trial Court has erroneously adopted the standard of minimum wages applicable to an agricultural labourer for an owner of the agricultural land. It was further contended that the trial Court has also erred in deducting 1/3 of the income as such, in reality, the deduction should have been to the tune of only 1/4 towards the personal expenses of the

deceased. It was further contended that the trial Court has not granted any prospective income. It was further contended that multiplier of 10 applied by the trial Court is erroneous as the deceased was only 50 years old and therefore as per the decision of the Apex Court in the case of Sarla Varma Vs. Delhi Transport Corporation & Anr., 2009 (6) S.C.C. 121, the trial Court ought to have applied multiplier of 13. It was also contended that the trial Court has also not provided any compensation towards consortium.

(7) In support of his submissions reliance was placed by the learned counsel for the appellants-original plaintiffs on the following decisions:

- (i) Sunil Sharma & Ors. Vs. Bachitar Singh & Ors., (2011) 11 S.C.C. 425;
- (ii) New India Assurance Co. Ltd. Vs. Gopali & Ors., AIR 2012 S.C. 3381;
- (iii) Rajesh & Ors. Vs. Rajbir Singh & Ors., 2013 ACJ 1403=(2013) 9 S.C.C. 54 ; AND
- (iv) Santosh Devi Vs. National Insurance Co. Ltd. & Ors., AIR 2012 S.C. 2185.

- (8) It was therefore submitted that the impugned judgment and decree is erroneous and the appeal deserves to be allowed as prayed for.
- (9) Per contra, Ms.Lilu Bhaya, learned counsel for the respondents-original defendants, Electricity Company, submitted that though it is not in dispute that the deceased was the owner of the agricultural land of 35 Vighas, except the oral deposition of son of the deceased, no other evidence is led by the plaintiffs to prove the aspect of income. It was submitted that the plaintiffs have not produced any documentary evidence or even a remote proof as regards their income, just as bills of APMC, etc. and therefore except oral testimony, there was no other evidence whereby the appellants-plaintiffs have attempted to prove the income of the deceased. It was contended that even the revenue record (Exh.21-24) does not take the case of the appellants-plaintiffs any further. It was further contended that two sons of the deceased were major on the date of the incident and therefore they cannot be said to be the dependent and hence, the trial Court has rightly deducted 1/3 from the income of the deceased. It was contended that the

contention as regards prospective income is raised for the first time and no evidence is adduced before the trial Court. It was also contended that the trial Court has correctly applied multiplier of 10. It was further contended that as far as the impugned judgment and decree is concerned, the same is already implemented and the appellants-plaintiffs have been paid as per the impugned judgment and decree and that the original defendants have not preferred any appeal before any higher form and have accepted the impugned judgment and decree.

- (10) In support of her submissions reliance was placed by the learned counsel for the respondents-original defendants on the decision of the Apex Court in the case of State of Haryana & Anr. Vs. Jasbir Kaur & Ors., AIR 2003 SC 3696 and it was contended that the deceased being an agriculturist, normal rule about deprivation of income cannot be strictly applied and in absence of any material produced on record it cannot be said that the deceased was earning Rs.50,000/year. It was also contended that as such the land still remains with the plaintiffs as the legal heirs of the deceased and therefore the prayer for higher

loss of income is misplaced. It was therefore submitted that the appeal is meritless and the same deserves to be dismissed.

(11) Considering the contentions raised by the learned counsel for the parties and on perusal of the record and proceedings, it is an admitted position that the deceased and three animals belonging to the deceased came in contact with a live electric wire on 12.07.1999 near their residence at Village Ghoghavadar, Tal. Gondal, Dist. Rajkot and sustained injuries and succumbed on the spot. As such there is no dispute as regards occurrence of the accident as is also indicative from the postmortem note (at Exh.43) wherein the cause of death is shown "shock due to burns due to electric shock". The respondents have also not filed any appeal. In view of such an admitted position therefore this appeal needs to be examined only qua the quantum of compensation.

(12) It may be worthwhile to note that in the plaint itself the appellants-plaintiffs have contended that the deceased had income of Rs.50,000/- p.a. from 35 vighas of irrigated agricultural land. It was

contended that the yield was to the tune of Rs.3,00,000/- p.a. On such factual basis it is averred in Paragraph No.9 of the plaint that as the appellants-plaintiffs have suffered loss of income Rs.50,000/- p.a., they are entitled for Rs.5,00,000/- as loss of income. Similarly, the appellants-plaintiffs have claimed Rs.35,000/- for two bullocks and Rs.7,000/- for the cow, Rs.10,000/- for convention and Rs.1,000/- for vehicle expense and Rs.10,000/- for after death ceremony. Thus, in all the appellants-plaintiffs have claimed Rs.5,63,000/-.

(13) Record and proceedings as they stand appear that no amendment is made to the claim of Rs.5,63,000/- by the appellants-plaintiffs-claimants. The claimants have also produced on record postmortem note (Exh.43), panchnamas of site as well as inquest, the respondents-original defendants have also filed written statement and accordingly the trial Court framed issues (Exh.7).

(14) Record further indicates that son of the deceased, Shri Sureshbhai Jivabhai Dobaria was examined (Exh.14). Apart from narration of the accident, the said witness has

averred that price of two bullocks would come to Rs.35,000-40,000/- and that of a cow would be Rs.7,000-8,000/-. The said witness has deposed that because of hard work of his father (the deceased) we use to earn profit of Rs.50,000/year. The said witness has narrated the fact that on the date of accident, age of his father (the deceased) was 50 years. He has also stated that two bullocks and one cow were there and all the three cattle died because of the electric shock. The said witness has also stated that the deceased did not suffer from any disease and was not impaired in any manner. That the net income from the agricultural work was Rs.50,000/year because of the efforts made by the deceased.

In his cross-examination it is stated that when the said accident occurred he was aged about 26 years. It is also stated that yearly income from the agricultural work done by his deceased father was Rs.50,000/year.

- (15) Record further indicates that Village Form No.7 x 12 relating to land bearing Revenue Survey No.71 part, admeasuring 4-7 Acre-Guntha, situated at Village Ghoghavadar,

known as "Udamani Wadi", is produced at Exh.21. Similarly, Village Form No.7 x 12 relating to land bearing Revenue Survey No.38/1 part also stands in the name of the deceased, which is endorsement of the land having been confiscated (khalsa) Exh.230, Village Form No.7 x 12 relating to Revenue Survey No.130 paiki having been confiscated (khalsa). Similarly Village Form No.8A (Exh.24) indicates that Khata No.259 stands in the name of the deceased and has total land holdings of 14.01 Acre-Gunthas.

- (16) Appellants-original plaintiffs have also examined one Shri Girdharbhai Bavabhai (Exh.29) and from his deposition it is evident that he has supported the case of the appellants-original plaintiffs as far as the fact that the deceased was tilling the land in question and has also supported the case as far as occurrence of the incident is concerned. The said witness has deposed that the agricultural labourers are to be paid Rs.100-125/day as labour charges.

In his cross-examination he has stated that he stays in the same village. That the inquest panchnama was done in his presence. That he has supported the case of the

plaintiffs as far as occurrence of the incident is concerned, he has clearly stated that on the date of incident i.e. on 12.07.1999 it was a rainy day/season and it rained in the evening when the incident occurred.

(17) The appellants-original plaintiffs have also examined one Shri Hitesh Kalyanji (Exh.33). He has stated that he remained present when the panchnama was prepared and has narrated in his cross-examination about the incident that occurred on 12.07.1999. It is found that even in his cross-examination he has denied the suggestion made by the defendants that he had not gone to the scene of occurrence and has denied that he has signed the panchnama at the instance of the police. He has also denied the fact that another witness-Chandubhai was not present. The said witness has also denied the suggestion of the defendants that as he is the relative of the deceased, he is giving false deposition.

(18) One Shri Piyush Tejabhai, Veterinary Officer, is examined at Exh.37, who performed the postmortem of bullocks and cow. The said witness has narrated the injuries, which were received by the cattle

and has also stated that the cow was in gestation period and had calf of eight months. The said witness has clearly opined that all the three cattle have died of respiratory failure due to electrical shock. Even in his cross-examination he has supported the said version.

(19) Postmortem reports of the two bullocks and one cow (Exh.39, 40 and 41) indicate that the said animals died due to electric shock which caused respiratory failure, comma and death, which are given by the veterinary officer, who is examined (Exh.37).

(20) Similarly, medical officer, Zubeda Hussenbhai Juneja, who performed postmortem upon the deceased is examined, as aforesaid (Exh.42).

(21) The original defendants have examined one Shri Govind Patel, who was working as Deputy Engineer with the erstwhile GEB (Exh.47). However, as the incident is not questioned by the defendants, the same is not discussed here. The said witness has only denied the fact about the values of the bullocks and the cow being Rs.35,000/- and Rs.7,000/- respectively and has also denied that the

plaintiffs have incurred expense of Rs.10,000/- towards transport. On the contrary it is found in his cross-examination that the said witness has accepted the fact that the broken aluminum wire was there due to which the incident has occurred, as per the case of the plaintiffs.

(22) Original defendants have also produced on record the detailed investigation report (Exh.49) and the map of the place of incident (Exh.50). However, as stated above, as it is not in dispute that the deceased as well as three animals have succumbed to the injuries received due to electric shock, it is not necessary for this Court to go into the said aspect and as observed aforesaid, the appeal is as such directed for enhancement of the compensation.

(23) It may be noted that except the oral deposition of son of the deceased i.e. Shri Sureshbhai Jivabhai Dobarua (Exh.14) and other two witnesses (Exh.29 and Exh.33) the appellants-original plaintiffs have adduced documentary evidence in the form of Village Form Nos.7 x 12 and 8A, as discussed above (Exh.21-24). The appellants-orig.plaintiffs have not adduced any further evidence as regards income of the deceased.

- (24) On examination of the evidence as a whole, except oral evidence there is nothing on record to show whereby it cannot be determined that what was the real income of the deceased. The trial Court has considered the minimum wages applicable to the agricultural labourers and has held that the deceased, who was aged 50 years was earning Rs.60/day, relying upon the prescribed rate by the government for labour worker.
- (25) Considering the deposition of the witness (Exh.29) wherein the witness has deposed that the agricultural labourers have to be paid Rs.100-125/day in crop season has considered the income of the deceased Rs.60/day i.e. Rs.1,800/month and after deducting 1/3 amount of his personal expense the trial Court has determined that per month the deceased used to earn Rs.1,200/- and has come to the conclusion that the deceased had income of Rs.14,400/year and applying multiplier of 10 and has come to the conclusion that the appellants-original plaintiffs would be entitled to Rs.1,44,000/- as compensation for the loss of income. The trial Court has similarly, relying upon the oral deposition of son of the deceased, Shri Sureshbhai (Exh.14) has

determined price of two bullocks Rs.35,000/- and Rs.7,000/- of a cow and have also granted Rs.11,000/- towards expense of vehicle and funeral ceremony and thus have granted total amount of compensation of Rs.1,97,000/- along with @ 9%.

(26) Considering the prayers prayed for in the plaint, as noted hereinabove, so far as compensation for bullocks and cow is concerned, the same is accepted by the trial Court in toto as claimed for. Similarly, the trial Court has also granted Rs.1,000/- towards vehicle expenses and funeral expense towards Rs.10,000/-.

(27) As stated hereinabove, the appellants-original plaintiffs have claimed Rs.5,00,000/- as compensation for the loss of income of the deceased which, according to the appellants-original plaintiffs, was Rs.50,000/month. It may be noted that the appellants-original plaintiffs have not claimed anything towards perspective income before the trial Court and have also not adduced any evidence to the said effect.

(28) So far as the evidence on record is concerned, except three depositions, more

particularly deposition of son of the deceased (Exh.14), there is nothing on record on the basis of which the exact income derived by the deceased can be determined. It appears that in absence of the same the trial Court has adopted the standard of minimum wages i.e. payable by the government to the labourer worker and comparing it with the case of the appellants-original plaintiffs in case of agricultural labourer has by guesswork fixed Rs.60/day as income of the deceased. Even considering the fact that there was no direct evidence as regards the income of the deceased on re-appreciation of the evidence on record this Court is of the opinion that as the deceased was the owner of the agricultural land he cannot be equated with an agricultural labourer. The trial Court in the instant case has considered the deceased as an agricultural labourer and relying upon the prescribed rate of the government for labour worker has presumed that in absence of the deceased agricultural labourer have to be paid Rs.100-125/day in crop season has considered the income of the deceased Rs.60/day i.e. Rs.1,800/month. Such a conclusion arrived at by the trial Court considering the fact that the deceased was

owner of the land is erroneous. Learned counsel for the respondents-original defendants has relied upon the judgment of the Apex Court in the case of State of Haryana (supra) wherein it has been observed (at Paragraph No.8) as under:

"8. It is clear on a bare reading of the Tribunal's decision as affirmed by the High Court that no material was placed before the former to prove as to what was the income. As rightly contended by learned counsel for the appellants, there was not even any material adduced to show type of land which the deceased possessed. The matter can be approached from a different angle. The land possessed by the deceased still remains with the claimants as his legal heirs. There is however a possibility that the claimants may be required to engage persons to look after agriculture. Therefore, the normal rule about the deprivation of income is not strictly applicable to cases where agricultural income is the source. Attendant circumstances have to be considered. Furthermore, there was no material before the Tribunal to arrive at the figure of Rs. 4500 per month. No reason has been indicated to arrive at this figure. In the light of what has been discussed above about "just compensation" the income cannot be estimated without any material to justify the estimation. In the normal course, we would have remitted the matter back to the Tribunal for fresh consideration. But considering the fact that one young person lost his life, and the matter was pending before the Tribunal and the High Court for some years, we feel it appropriate to take all relevant factors into consideration, and decide the matter. Gauzing the relevant aspects, noted above, the monthly income is fixed at Rs. 3000/- per month, and after deducting Rs. 1,000/- for personal expenses, financial contribution so far as the claimants are concerned is fixed at Rs. 2,000/- per month. Worked out on the basis of multiplier of 18, the compensation is fixed at Rs. 4,32,000/-. The amount of Rs. 2,000/- awarded by the Tribunal for funeral expenses is not interfered with and thus the total compensation comes to Rs. 4,34,000/-. The rate of interest i.e. 9% per annum as fixed by the Tribunal and affirmed by the High Court is appropriate, and does not need any alteration. After

adjusting the sum which was deposited pursuant to the order of this court dated 14-12-2001, the balance amount along with interest shall be deposited within three months from today before the Tribunal. On the deposit being made along with the amount already deposited, a sum of Rs. 3 lakhs shall be kept in the fixed deposit in the name of the claimants and a sum of Rs. 50,000/- shall be kept in fixed deposit in the name of Smt. Baldev Kaur, mother of the deceased. They shall be entitled to draw interest on the deposit, which shall be redeposited for further terms of five years. In case of urgent need, it shall be open to the claimants to move Tribunal for release of any part of the amount in deposit. The Tribunal shall consider the request for withdrawal and shall direct withdrawal in case of an urgent need and not otherwise of such sum as would meet the need. It shall be specifically indicated to the Bank where the deposits are to be made that no advance or withdrawal of any kind shall be permitted without the order of the Tribunal. It shall be open to the claimants to approach the Tribunal for variance of the order relating to deposit in fixed deposit, if any other scheme would fetch better returns and also would provide regular and permanent income."

(29) Considering the overall circumstances of the case on hand the deceased being owner of the agricultural land had to take care of the land for the whole year round and therefore he would at least earn Rs.100/day i.e. Rs.3,000/month i.e. Rs.36,000/year.

(30) While considering the aspect of future income which is not granted by the trial Court it would be appropriate to refer to the judgment of the Apex Court in the case of Rajesh & Ors. Vs. Rajbir Singh & Ors. (supra) wherein considering the case of a self-employed person between age group of

50-60 it has been observed thus:

"8. Since, the Court in Santosh Devi's case (supra) actually intended to follow the principle in the case of salaried persons as laid in Sarla Verma's case (supra) and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years.

9. In Sarla Verma's case (supra), it has been stated that in the case of those above 50 years, there shall be no addition. Having regard to the fact that in the case of those self-employed or on fixed wages, where there is normally no age of superannuation, we are of the view that it will only be just and equitable to provide an addition of 15% in the case where the victim is between the age group of 50 to 60 years so as to make the compensation just, equitable, fair and reasonable. There shall normally be no addition thereafter."

(31) It further appears from the plaint that the plaintiffs have not claimed anything as regards the perspective income. Learned counsel for the appellants-original plaintiffs-heirs of the deceased, relying upon the judgment of the Apex Court in the case of Santosh Devi (supra) has contended that even in case of self-employed person like the deceased the perspective income and increase in his total income over a period of time has to be calculated. In such

circumstances, this Court would have remanded the matter to the trial Court, however, considering the fact that the incident is of 1999, considering the evidence on record and overall circumstances, more particularly considering the fact that the deceased was an agriculturist and was owner of 35 vighas of agricultural land was actually tilling the land, it can safely be held that the deceased would have got 15% increase in his total income over a period of time. In the case on hand, therefore the deceased being a self-employed-agriculturist, tilling his own land, would earn 15% more and that benefit should be granted to the original plaintiffs to make compensation just, equitable and reasonable.

(32) It was also contended on behalf of the plaintiffs that only 1/4 of the income should be deducted as personal expenses deserves to be negative, taking into consideration the overall facts of the present case. On re-appreciation of evidence in opinion of this Court, the trial Court has rightly deducted 1/3 of the income from personal expenses.

(33) As such it appears from the plaint that the

appellants-original plaintiffs have claimed multiplier of 10, however, considering the ratio laid down by the Apex Court in the case of Sarla Varma (supra) considering that the age of the deceased was 50 years, the trial Court ought to have adopted multiplier of 13 instead of 10.

- (34) Learned counsel for the appellants-original plaintiffs-heirs of the deceased, has rightly contended that the deceased was the head of the family and not only plaintiff No.1 has been deprived of companionship, love and care and protection. The Apex Court in the case of Rajesh & Ors. Vs. Rajbir Singh & Ors. (supra) has observed thus:

"17 The ratio of a decision of this Court, on a legal issue is a precedent. But an observation made by this Court, mainly to achieve uniformity and consistency on a socio-economic issue, as contrasted from a legal principle, though a precedent, can be, and in fact ought to be periodically revisited, as observed in Santhosh Devi (supra). We may therefore, revisit the practice of awarding compensation under conventional heads: loss of consortium to the spouse, loss of love, care and guidance to children and funeral expenses. It may be noted that the sum of Rs.2,500/- to Rs.10,000/- in those heads was fixed several decades ago and having regard to inflation factor, the same needs to be increased. In Sarla Verma's case (supra), it was held that compensation for loss of consortium should be in the range of Rs.5,000/- to Rs.10,000/-. In legal parlance, 'consortium' is the right of the spouse to the company, care, help, comfort, guidance, society, solace, affection and sexual relations with his or her mate. That non-pecuniary head of damages has not been properly understood by our Courts. The loss of

companionship, love, care and protection, etc., the spouse is entitled to get, has to be compensated appropriately. The concept of non-pecuniary damage for loss of consortium is one of the major heads of award of compensation in other parts of the world more particularly in the United States of America, Australia, etc. English Courts have also recognized the right of a spouse to get compensation even during the period of temporary disablement. By loss of consortium, the courts have made an attempt to compensate the loss of spouse's affection, comfort, solace, companionship, society, assistance, protection, care and sexual relations during the future years. Unlike the compensation awarded in other countries and other jurisdictions, since the legal heirs are otherwise adequately compensated for the pecuniary loss, it would not be proper to award a major amount under this head. Hence, we are of the view that it would only be just and reasonable that the courts award at least rupees one lakh for loss of consortium."

(35) Following the ratio enunciated in the case of Rajesh & Ors. Vs. Rajbir Singh & Ors. (supra), considering the date of the incident and considering the overall circumstances arising in the present case, the plaintiffs would be entitled to consortium of at least Rs.25,000/- also, considering the age of the deceased. The trial Court has totally ignored this fact. It is an admitted position that the accident has occurred. The defendants have not challenged the judgment and decree impugned in this appeal and therefore the plaintiffs are entitled to consortium of Rs.25,000/-, as observed above.

(36) In view of the aforesaid discussion and on

re-appreciation of the evidence on record, as well as considering the decisions of the Apex Court in order to determine the just compensation the plaintiffs are also entitled for the benefit of perspective income as well as consortium. Accordingly, the compensation has to be reassessed as follows:

Particulars	Calculation
3,000/month x 12 months	36,000.00
15% prospective income (of 36,000/-) (+)	5,400.00
Gross	41,400.00
Less 1/3 Personal expenses (of 41,400.00) (-)	13,800.00
Multiplier of 13 (x 13800.00) (+)	3,58,800.00
Towards consortium (+)	25,000.00
Towards bullocks & cow (+)	42,000.00
Towards Funeral expense (+)	11,000.00
Total compensation to be awarded	4,36,800.00

The trial Court has also correctly awarded 9% interest from the date of the suit till realization.

(37) In the result, the appeal is allowed to the aforesaid extent. Impugned judgment and decree is modified. Decree be drawn accordingly.

(38) Record and proceedings be sent to the trial

Court forthwith.

Sd/-
[R.M.CHHAYA, J]

* * *

*Bhavesh[pps]**