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## “A CRITICAL STUDY ON THE MULTIPLIAR FORMULA FOR AWARDING COMPENSATION UNDER THE MOTOR VEHICLES ACT, 1988”

### Abstract

*The fundamental and entitlements of a citizen from his/her country and government, are pre-requisites for development, in that only when the people are confident of accessing their rights, are they able to absorb and utilize development input. This necessitates upon the local government and development actors to ensure human rights and create environment for equal and fair justice. This Study deals with awarding compensation under the motor vehicles accidents. It is of utmost importance owing to the alarming increase in accidental deaths, injuries to life, limbs and property as an impact of the modern civilization becomes a major problem. The process need to begin with state commitment and associated development action to provide for the basic needs and fundamental rights of the population. Critically important is the delivery and reach of welfare services such as education and health.*

*Human Capital is the most dynamic, realistic and invisible quality. It is very difficult to major the capability and competency of human being, everyone has their own life style and resources for maintaining his/her life. Everyone is unique and they have unique physical and mental power and we can't make them equal at every stage of life. (Usain Bolt is known by the power of their legs), (Chris Gayle is known by the power of his hand), (Michael Phelps is known by the power of physical strength in swimming), (Viswanathan Anand is known by his mind power), (M.C Mary Kom is known by her boxing power). Factor like expectancy, HDI, DA, Purchasing Power, and Medical Expenses which are relevant to human life increased heavily in last few decades but related provision in law are not enough to give justice to accident victim in present conditions. Articles 14 and 28 of the Constitution clearly expresses the letter and spirit of equal justice to all citizens, irrespective of status, caste, color and creed was uppermost in the minds of founding fathers, who had framed the Constitution. Though Article 14 of the Constitution provides equality of opportunity before law, but in practice it is not so. The poor victims of the road accidents, in fact, do not even know the remedies available to them. The people in India are not well aware of the entitlement of the grant of compensation in case of injury or death in a road accident under the Motor Vehicles Act. The poor victims of the road accident, in fact, do not even know the remedies available to them. Thus, there is a need of bringing social awareness among the people. So we can say that no formula can be fit for awarding compensation in accidental cases. It needs more focus on the circumstances and high quality of speedy judgment.*

### → Introduction to Keywords and their definition:

1. **Life expectancy:** If your child was born in the last couple of years, he or she is likely to live five years more than children born a decade ago. Statistics released by the Union ministry of health and family welfare show that life expectancy in India has gone up by five years, from 62.3 years for males and 63.9 years for females in 2001-2005 to 67.3 years and 69.6 years respectively in 2011-2015. Experts attribute this jump — higher than that in the previous decade — to better immunization and nutrition, coupled with prevention and treatment of infectious diseases. The World Health Organization defines life expectancy as "the average number of years a person is expected to live on the basis of the current mortality rates and prevalence distribution of health states in a population".
2. **Human Development Index:** HDI is basically a composite index of three attainments of development: health, education and standard of living. For health, life expectancy at birth is taken as an indicator; for

education, adult literacy and enrolment ratio are taken into consideration while Per Capita GDP at PPP is taken as an indicator of standard of living

3. **Purchasing Power Of Rupees:** Purchasing power parity is defined as the number of units of a country's currency required to buy the same amount of goods and services in the domestic market as one dollar would buy in the US. The technique of purchasing power parity allows us to estimate what exchange between two currencies is needed to express the accurate purchasing power of the two currencies in the respective countries.
4. **Health Expenses Of Family:** The Constitution of India makes health in India the responsibility of state governments, rather than the central federal government. It makes every state responsible for "raising the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties". The National Health Policy was endorsed by the Parliament of India in 1983 and updated in 2002. The National Health Policy is being worked upon further in 2017 and a draft for public consultation has been released
5. **Dearness Allowance:** The Dearness Allowance (DA) is a cost of living adjustment allowance paid to Government employees, Public sector employees (PSU) and pensioners in Pakistan, Bangladesh and India. Dearness Allowance is calculated as a percentage of an Indian citizen's basic salary to mitigate the impact of inflation on people. Indian citizens may receive a basic salary or pension that is then supplemented by housing or a dearness allowance, or both. The guidelines that govern the DA vary according to where one lives (for example, whether rural or urban)

#### ➔ **Meaning of Multiplier formula for awarding compensation:-**

Multiplier is to be used as per law laid down in Sarla Verma vs. Delhi Transport Corporation. The choice of multiplier has to be based on the age of the deceased or of the claimant whichever is higher and the deduction for personal expenses of the deceased also depends on number of dependent family members. But the Table of Multiplier is also not to be blindly followed, as held in Naina Thakur vs. Punjab Women's Welfare Colleges Board, as under: "It is thus apparent that the Apex Court has now approved the multiplier. I would, however, like to add a caveat on the basis of the law laid down in Susamma Thomas & Trilok Chandra and approved in Sarla Verma. The choice of multiplier has to be based on the age of the deceased or the claimants whichever is higher. Therefore, if the parents are the claimants. It is age of the parents which will have to be taken into consideration while fixing the multiplier. Table is also not to be blindly followed and the Tribunal may well be within its jurisdiction to make departure from this table in particular cases. For example if the deceased was aged between 41 to 45 years as per this judgment multiplier of 14 is to be used. However, the deceased if he had married late, may have left behind a very young widow and two small children. The Tribunal in such a case may be justified in increasing the multiplier to 15. On the other hand there may be a case where the deceased who was aged between 41 to 45 years has not left behind a widow and the claimants are sons who are majors and are not dependents. The multiplier may be suitably reduced in such cases. This has to depend on the facts of each case." Reference may also be made in this regard to P.S Somanathan vs. District Insurance Officer. Rule of Sarla Verma's case 20 can be deviated in exceptional circumstances where income of deceased was bound to increase.

#### ➔ **Objectives of the study**

The clear object to make success out of any work or any definite reason behind to do any work is said the object. Without object, no one can reach to the path of the success.

#### **The objects of the present research are as under:**

- To study the implications and effects of the provision of the multiplier formula for awarding compensation.

- To study the improvement and more effective multiplier formula for awarding compensation.
- To study the rationality of multiplier formula for awarding compensation.
- To study for providing adequate compensation to victim of road accidents without going into long drawn procedure.
- To study the simplification of procedure for awarding compensation under multiplier formula.
- To study the adequate increase in the amount of compensation to the victims of hit & run cases.
- To study the liability and responsibility of state transport authority and rationalizing the role of police authority in hit & run cases.
- To study the effective means of tracking down traffic offenders in hit & run cases.
- To study the purpose of new multiplier formula for awarding compensation to road accidents victim on the basis of age/income, which is more liberal and rational.

#### ➔ Research Questions:-

- What is multiplier formula?
- What is means by awarding compensation?
- How multiplier formula co-relative for awarding compensation?
- Is the multiplier formula for awarding compensation is constitutionally justified?
- Is the multiplier formula for awarding compensation able to provide justice to victims in hit & run cases?
- Does the multiplier formula provide adequate compensation in present conditions?
- What is the role of multiplier formula for awarding compensation?
- Is it the fraud with the victim on the name of justice?
- What is the role of judiciary in awarding compensation?
- Why multiplier formula is not successful in present conditions?
- Is multiplier formula an effective method for awarding compensation?
- What is the stand of Hon'ble Apex Court on the awarding compensation?

#### ➔ Significance Of Research:

In present times, the role of transportation is it public or private, has become essential for our social interactions and commercial transactions. Transportation is getting technologically more advanced every other day. There is a huge expansion in use of motor vehicles, be it for the purpose of businesses or for private purposes. Even with the advancement of technology we have to deal with untoward incidents of road accidents. Some of the reasons for road accidents are-over speeding, drunken driving, distractions to driver like smart phones, non-adherence to traffic rules, overtaking in wrong manner and jumping the red light. Every other day there is an increase in number of vehicles on the road across India. Now if someone unfortunately meets an accident then what are the remedies available to the injured victim by the law? There is a remedy i.e. the Right to Compensation under Motor Vehicles Act, 1988. Let us briefly familiarize ourselves with the various aspects of Indian law dealing with claims in relation to accidents by motor vehicles (primarily Motor Vehicles Act, 1988). the recommendations made by various High Courts And Supreme Court of India in their judgments, the Motor Vehicles Act, 1939 has been amended many times, unfortunately, the piece meal and half-hearted legislation has left many loop holes and deficiencies even in present Act of 1988. Motor vehicle accident compensation may also be claimed under Section 166 of this Act. The main object of this Act is to provide a speedy remedy instead of a civil suit as is required under Fatal Accidents Act. But in one respect Motor Vehicles Act is narrower because it applies only in cases of accidents caused by motor vehicles. The question of liability of the parties, which was governed by Law of Torts, is unaffected by the Act. It only changes the forum taking away the jurisdiction of the Civil Court. While fixing the amount of damages the Tribunal should ascertain separately and determine under different heads pecuniary and non-pecuniary damages awarded. Although the sum awarded must be a lump sum it must be made up of its constituent parts, and it was decided in case *M.P.S.R.T. Corporation v. Jahiram*. The Supreme Court in *Shekhupura Transport Co. v. N.I.T. Insurance Co.*, held that for fixing compensation under S.110-B of Motor Vehicles Act, 1939 (S. 168 of Motor Vehicles Act, 1988) the general

principle that the pecuniary loss can be ascertained only by balancing on the one hand the loss to the claimants of the future pecuniary benefit and on the other hand any pecuniary advantage, which from whatever source comes to them by reason of death, that is, balance of loss and gain to a dependent must be ascertained.

➔ **Limitations of the Study:** Limitations of the study are as follows:

1. Investigator took five parameters(factors) for purposing new multiplier formula for awarding compensation (Life expectancy, Human Development Index, Purchasing power of rupees, Health expenses of family, Dearness allowance)
2. Available data taken from websites of different department
3. The Parameters (factors) used in research may have some limitations.

➔ **Disadvantage of Multiplier Formula:**

1. Ordinarily the provisions of Sch. II including the multiplier may be taken as a guide but there may arise cases having special features of facts calling for deviations from the scheduled multiplier. Hence deviation is permissible on special reasons, *United India Insurance Co. Ltd. V. Patricia Jean Mahajan*, (2002) 6 SCC 281.
2. Multiplier strict sense (i.e. without one-third deduction) under S. 163-A is not applicable in the case of fatal accident, *National Insurance Co. Ltd. V. Gurumallamma*, (2009) 16 SCC 43: (2010) 2 SCC (Cri) 138.
3. Valuation of income of homemaker as one-third of the income of earning spouse is not based on any apparently rational basis. Suitable amendment to Act, recommended for proper assessment of homemaker's work, *Arun Kumar Agrawal v. National Insurance Co. Ltd.*, (2010) 9 SCC 218: (2010) 3 SCC (Civ) 664.
4. Liability under S. 163-A is fault based liability. Compensation under S. 163-A, may be reduced on proof of such contributory negligence. However, onus to prove contributory negligence remains on insurer/owner i.e. defense. Claim for compensation raised under S. 163-A need not be based on pleadings or proof by claimants showing absence of contributory negligence. Onus of proof of contributory negligence lies on shoulders of defense (owner or insurer), *National Insurance Co. Ltd. V. Sinitha*, (2012) 2 SCC 356: (2012) 1 SCC (Cri) 659: (2012) 1 SCC (Civ) 881.
5. Provisions of S. 163-A are independent and have overriding effects on all provisions of the Act, *National Insurance Co. Ltd. V. Sinitha*, (2012) 1 SCC (Cri) 659: (2012) 1 SCC (Civ) 881.

➔ **Population and Sample**

In present study, the researcher had gone through various provisions of hit & run cases under motor vehicle act 1988, courts judgments for awarding compensation under multiplier formula in India.

➔ **Research Laboratory:** - In the field of law for legal researcher need sound law library to do the research work.

➔ **Mode of Citation:** - Citation is very important for good research. The researcher used blue book mode of citation.

➔ **Collection of Data**

Researcher collected the material from the secondary source of data. (Judicial pronouncement, academic writing, public opinion, judicial decision, academic literature)

➔ **Research Methodology**

This is being a critical research is based on data collected from second resources. The secondary sources are books of motor vehicle act, courts judgments and article on accidental cases.

### → Data Analyze Technique

1. Formation of tables and classes.
2. The statistical methods used in describing or summarizing the mass of data are the central tendency of distribution (average)
3. A related method of comparing values through percentage uses to simplicity the problem.

### Findings and suggestions

Table: 1

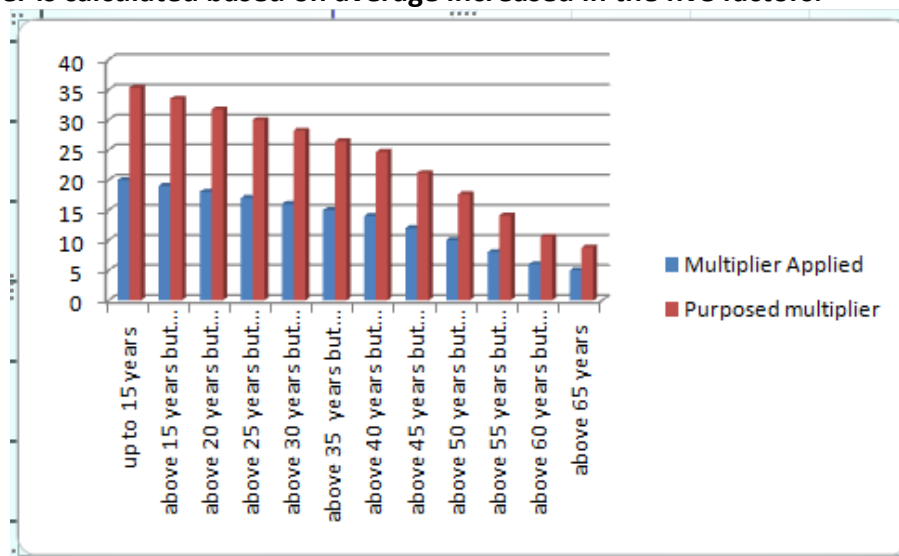
Sr. No	Factors	% Increase/decrease
1	Life expectancy	20.06
2	Human development index	35.96
3	Dearness allowance (Central Govt.)	119
4	Indian per capita purchasing power parity	29.78
5	Medical expenses of Household	176.08
	Total	380.88

Average Of Above Five Factor =  $380.88/5 = 76.16$

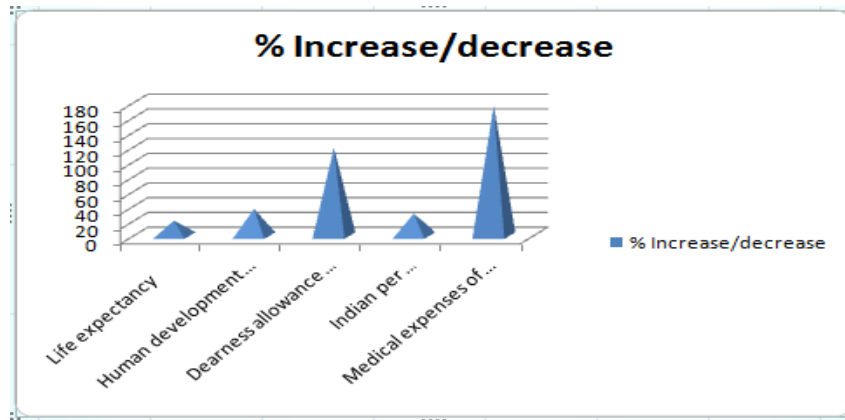
Table: 2

Sr. No	Age of victim	Multiplier Applied	Purposed Multiplier
1	up to 15 years	20	35.32
2	above 15 years but not exceeding 20 years	19	33.47
3	above 20 years but not exceeding 25 years	18	31.70
4	above 25 years but not exceeding 30 years	17	29.94
5	above 30 years but not exceeding 35 years	16	28.18
6	above 35 years but not exceeding 40 years	15	26.42
7	above 40 years but not exceeding 45 years	14	24.66
8	above 45 years but not exceeding 50 years	12	21.13
9	above 50 years but not exceeding 55 years	10	17.61
10	above 55 years but not exceeding 60 years	8	14.09
11	above 60 years but not exceeding 65 years	6	10.56
12	above 65 years	5	8.80

Purposed multiplier is calculated based on average increased in the five factors.



The above graph shows the existing and purposed multiplier factor based on Average percentage change in the factors.



The above graph shows increase in various factors in past few decades which are co- related for awarding compensation

#### → Suggestions:-

1. The cost of some major accidental surgeries in hospital across India has grown up in recent year. And existing multiplier formula for awarding compensation is not enough (very low) to victims.
2. Hit & Run can be explained as the liability of driver of the vehicle who involved in a collision which damages other vehicle or injured to third party. But in most of the cases our responsible authorities are not able to trace the right person who commits accident.
3. Methods to determine compensation are so complex and liabilities are very low as compare to loss suffered by victims.

#### → Conclusion

Fair compensation is one which deals transparently, known exploitatively and justly, over long term with all individuals, their family, legal hires and society. We need to deal with the substantive issue of relative efforts, outcome and (distributive justice) compensation. This governs the fundamental expectation people have, to be treated with respect and dignity (Which is sometimes labeled as inter personal justice). When we turn to aggregate, it is important that the rights of collective with weaker voices are not overlooked in favor of the stronger (rich) individual. The principal of inter personal and procedural justice are here examined though a collective wide angle lenses.

To award compensation the following must be taken care

1. Ethical and sustainable compensation for long term
2. Living and leading the laws.
3. People – valuing future earning policies
4. Equitable sharing of losses by the government , insurer and third party
5. Timely review and progress of existing compensation laws.
6. Timely awarding of compensation

The compensation paid in hit and run motor accident are very less and according to me the amount of compensation paid should be raised so that the affected person feel satisfied with it any provision thereof shall be punishable with imprisonment for such term as may be specified but in no case exceeding three months, or with fine which may extend to such amount as may be specified but in no case exceeding five hundred rupees or with both; the powers, functions or duties conferred on imposed on any officer or authority by such scheme may be delegated with the prior approval in writing of the Central government, by such officer or authority to any other officer or authority.

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**Mr. Prithvi Raj**  
Research Scholar  
University-Gujarat University  
Ahmedabad

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