In a situation when both the judgments are rendered by two-member Benches, the predicament of the Court would be as to which one is to be followed. There would not have been a problem in case one of these judgments was by a larger Bench. In such a case, the solution was to follow the dicta of the larger Bench. This aspect was succinctly dealt with by the Full Bench judgment of the Delhi High Court in Writ Petition(C) No.5390 of 2010 titled as Deepak Kumar and others vs. District & Sessions Judge, Delhi and others, decided on 12.9.2012, in the following manner:-

"37. High Courts, and indeed all Courts, are tethered to precedent and the law declared by the Supreme Court by virtue of Article 141 of the Constitution. The doctrine of precedent is essential to ensure consistency and stability in the administration of law or else, if each court is left free to pursue its views regardless of previous judgments of higher courts, or Benches of greater composition, in a hierarchal system, the consequence would be chaos and uncertainty about the law. Here, one recollects the caution administered in Broom v. Cassell & Co., [1972] 1 AER 801 that:

"it will never be necessary to say so again, that in the hierarchical system of courts which exists in this country, it is necessary for each lower tier, including the Court of Appeal, to accept loyally the decisions of the higher tiers".

The rule was again explained in Davis v. Johnson, (1978) 2 WLR 152 in the following words:

"Their Lordships regard the use of precedent as an indispensable foundation upon which to decide what is the law and its application to individual cases. It provides at least some degree of certainty upon which individuals can rely in the conduct of their affairs, as well as a basis for orderly development of legal rules."

The Supreme Court, speaking through Krishna Iyer, J, in Ambika Prasad Misra v. State of U.P. AIR 1980 SC 1762 explained that even though a decision might be based on faulty reasoning or might be unsatisfactorily argued, if it is of a higher court and consequently binding, has to be necessarily followed. The following observations in Salmond's 'Jurisprudence', page 215 (11th edition) was referred to:

"A decision does not lose its authority merely because it was badly argued, inadequately considered and fallaciously reasoned."

Supreme Court held in Shyamaraju Hegde vs U. Venkatesha Bhat & Ors 1988 SCR (1) 340 that:

"The Full Bench in the impugned judgment clearly went wrong in holding that the two-Judge Bench of this Court referred to by it had brought about a total change in the position and on the basis of those two judgments. Krishnaji's case would be no more good law.

The decision of a Full Bench consisting of three Judges rendered in Krishnaji's case was binding on a bench of equal strength unless that decision had directly been overruled by this Court or by necessary implication became unsustainable. Admittedly there is no overruling of Krishnaji's decision by this Court and on the analysis indicated above it cannot also be said that by necessary implication the ratio therein supported by the direct authority of this Court stood superseded. Judicial propriety warrants that decisions of this Court must be taken as wholly binding on the High Courts. That is the necessary outcome of the tier system."

One of the accepted principles of 'stare decisis' and is explained by the Supreme Court in the case of Government of Andhra Pradesh and others v. A.P. Jaiswal and others, 2001(1) RSJ (SC) 791, in the following words:

"Consistency is the cornerstone of the administration of justice. It is consistency which creates confidence in the system and this consistency can never be achieved without respect to the rule of finality. It is with a view to achieve consistency in judicial pronouncements, the courts have evolved the rule of precedents, principle of stare decisis etc. These rules and principles are based on public policy and if these are not followed by courts then there will be choas in the administration of justice……"

Madras High Court in R. Rama Subbnarayalu v. Rengammal, A.I.R. 1962 Madras 450, made the following pertinent observations:

"Where the conflict is between two decisions pronounced by a Bench consisting of the same number of Judges, and the subordinate Court after a careful examination of the decisions came to the conclusion that both of them directly apply to the case before it, it will then be at liberty to follow that decision which seems to it more correct, whether such decision be the later or the earlier one"

26. We are of the opinion that for very weighty reasons given by the Bench in Sarla Verma (supra), normally, rule should be to make an addition on account of future prospects in the income of a person @ 30%, even in the case of a deceased who was self-employed or who was paid fixed wages without increments, inasmuch as, it would be presumed that those who are self-

employed or on fixed wages without increments, their income in future would grow. In addition to the examples given by the Supreme Court in Santosh Devi (supra), we would like to point out that the income of the self-employed professionals like doctors, lawyers, chartered accountants normally grow with experience in maturer years by leaps and bounds. It is, therefore, not even feasible to limit the discretion of the MACT in a given case to make addition by fixed percentage. No doubt, the percentage of addition which is suggested in Sarla Verma (supra) to achieve uniformity may be with laudable objective, however, denying the benefit to certain classes of cases is not found justifiable in Santosh Devi (supra). Insofar as this Court is concerned, we are of the opinion that addition in income @ 30% on account of future prospects will be made in those cases where the deceased was self-employed or was paid fixed wages. This can be denied only if some specific evidence is produced and circumstances shown by producing material on record that there was no chance of such an increase in a given case.

In such a situation the High Court is not bound to follow the one which is later in point of time, but may follow the one which according to it, is better in law. This is so held by a Full Bench of this Court in Indo-Swiss Time Ltd. vs. Umarao, AIR 1981, Punjab & Haryana 213.