IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

FIRST APPEAL NO.711 OF 2023

Rajkumar Pandhari Ingle
Aged about 47 years, Occ: Nil,
R/o Plot No.13, Adiwasi Society No.1,
Manish Nagar, Somalwada, Nagpur. **...APPELLANT**
(On RA)

...V E R S U S...

1. Ashwin Arvind Jaiswal
Aged Major, Occ-Owner
R/o Fat No.1, Ashirwad Palace,
Abhyankar Road, Dhantoli,
Nagpur.

2. The Divisional Manager,
National Insurance Co. Ltd.
Paul Commercial Complex,
Ajni Chowk, Wardha Road,
Nagpur. **...RESPONDENTS**
(On RA)

Shri Madhur Deo, Advocate for appellant.
Shri Rohit Vaidya, Advocate for respondent no.1.
Shri C.A. Anthony, Advocate for respondent no.2.

CORAM:- M.W. CHANDWANI, J.
DATED :- 10.09.2025

ORAL JUDGMENT:

1. This appeal preferred under Section 173 of the Motor Vehicles Act, 1988 challenges the quantum of compensation granted by the Motor Accident Claims Tribunal, Nagpur (hereinafter referred to as "**Tribunal**" for short) in M.A.C.P. No.832/2016 under various heads on account of a vehicular

accident which occurred on 03.05.2016.

The brief facts of the case are as under:

2. On 03.05.2016, at about 2.30 hours, the appellant suffered grievous injury in the accident with the offending vehicle of respondent no.1 which was insured at the relevant time with respondent no.2. Pursuant to the grievous injury, the appellant sustained permanent injury to the lower limbs and as a result of that, now he cannot move without the assistance. The appellant filed a petition under Section 166 of the Motor Vehicles Act for grant of compensation on account of the injury. The Tribunal partly allowed the claim and granted a compensation of ₹1,08,25,732/- under various heads namely, ₹96,88,182 towards future pecuniary loss, ₹38,285/- towards medicine, ₹3,09,400/- for physiotherapy, ₹2,22,000/- towards bathing, clothing and massage, ₹32,865/- for medicine purchased from Med Plus, ₹1,44,000/- towards feeding and sponging, ₹66,000/- towards the customized wheel chair, ₹1,50,000/- for pain and suffering, ₹1,00,000/- for loss of amenities, ₹50,000/- towards special diet and ₹25,000/- towards future medicine expenses.

3. This appeal has been filed on various grounds amongst others such as non application of proper multiplier by the Tribunal. Even while assessing the income and future prospects, compensation of only ₹1,50,000/- has been granted towards pain and suffering, future attendant charges have not been granted and even future medical expenses are also not considered.

4. Learned counsel for the appellant Shri Madhur Deo vehemently submitted that, though the learned Tribunal has granted ₹200/- for attendant expenses till the date of filing of the petition but no expenses towards future attendant have been granted by the learned Tribunal. According to him, the appellant will require one attendant. Therefore, attendant charges are to be granted by applying a multiplier as in the case of ***Kajal Vs. Jagdish Chand and others*** [1] wherein, the Supreme Court has granted future attendant charges by applying a multiplier system which was latter followed in the case of ***Baby Sakshi Greola Vs. Manzoor Ahmad Simon and another*** [2].

5. It is also contended that the compensation towards pain and suffering is on the lower side. One of the main contentions of the learned counsel for the appellant is that the date of birth of the appellant is 25.09.1975 and on the date of

1 **(2020) 4 SCC 413**
2 **2024 INSC 963**

accident, he had not completed 41 years of age but the learned Tribunal instead of applying multiplier of 15, has applied the multiplier of 14.

6. Conversely, learned counsel for respondent no.2 Shri C.A. Anthony submitted that the learned Tribunal has considered all these aspects and granted just compensation. According to him, even future medical expenses are granted apart from pain and suffering. Therefore, he supported the judgment of the learned Tribunal and sought rejection of the appeal.

7. Having heard the respective counsels and having gone through the record, it transpires from the Income Tax Return that the date of birth of the appellant is 25.09.1975. Indisputably, the accident occurred on 03.05.2016. Thus, by calculation, on the date of accident though the appellant had crossed the age of 40 years but had not not completed 41 years. A reference can be made to the decision in the case of ***New India Assurance Co. Ltd. Vs. Alpa Rajesh Shah and others*** [1], wherein the Division Bench of this Court by relying on the decision of ***Sarla Verma vs. Delhi Transport Corporation*** [2] has observed as under:

"16. The other issue is regarding the multiplier to be

1 **2014(2) MhLJ 17**
2 **(2009) 6 SCC 121**

> *applied in terms of the decision of the Apex Court in the case of Sarla Verma (supra). The date of birth of the deceased was 29th June 1968. So on the date of accident, his age was about 30 years and 8 months. The Apex Court in paragraph 42 of its decision in the case of Sarla Verma (supra) has held that the multiplier of 17 shall be applied for the age group of 26 to 30 years and multiplier of 16 shall be applied for the age group of 31 to 35 years. The submission of the learned counsel for the appellant is that the deceased was falling in the age group of 31 to 35 years. However, the deceased had not completed age of 31 years. On this aspect, it will be necessary to make a reference to the decision of this Court in the case of National Insurance Company Limited vs. Vaishali Harish Devare and others5. This was a case where the age of the deceased was more than 40 years but less than 41 years. The issue was whether the deceased will fall in the age group of 36 to 40 years or the age group of 41 to 45 years in terms of the decision of the Apex Court in the case of Sarla Verma. Relying upon the decision of the Apex Court in the case of Sarla Verma (supra), in paragraph 26 this Court held thus:*
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> > *"26....The completed age of the deceased at the time of death was 40 years. In terms 5 First Appeal No.1068 of 2012 decided on 31st August 2012 12 fa848 final draft of the decision of the Apex Court in case of Sarla Verma and others (supra), for the age group of 36 to 40 multiplier of 15 has been specified. For the age group of 41 to 45, multiplier of 14 has been specified. Therefore, by applying multiplier of 15, the total 1000 of dependency will be Rs.49,95,000/-..."*

8. In view of the above and the fact that the appellant had not completed 41 years of age, the Tribunal wrongly applied the multiplier of 14 instead of 15 while calculating loss of income and future prospects, which is required to be corrected here.

9. This takes me to the submission regarding non granting of future attendant charges. It is a matter of record that the Tribunal has granted attendant charges at the rate of ₹6,000/- which the appellant has spent till the filing of the claim petition, but the future attendant charges have not been awarded. Though the appellant is mentally fit, considering 100 per cent disability to lower limbs of the appellant, he requires one attendant on same of the occasions during course of a day therefore, the Tribunal ought to have granted the future attendant charges. Though, the appellant has 100 per cent disability to his lower limbs, but fact remains that his upper limbs are working. Considering these aspects, the attendant charges granted by the Tribunal at the rate of ₹200/- per day be also extended towards future attendant charges to the appellant. As held in the case of ***Kajal*** (supra), the attendant charges are to be granted by applying the multiplier factor. These aspects have not been considered by the Tribunal and therefore, the appellant is entitled for future attendant charges at the rate of ₹6,000/- per month X 12 (months) x 15 (multiplier).

10. So far as pain and suffering charges are concerned, the Tribunal has granted ₹1,50,000/-. Considering the fact that the applicant has been declared as 100 per cent disabled with regard to both his lower limbs, meaning thereby that he is unable to stand on his own and the fact that it will be difficult for him to even pursue his daily routine including nature's call; in my view, the Tribunal ought to have granted ₹2 lakhs towards pain and suffering.

11. In the decision of the Supreme Court in the case of ***Sidaram Vs. Divisional Manager, United India Insurance Company Limited and another***[1] relied upon by the learned counsel for respondent no.2, a 19 year old boy was granted compensation of ₹1 lakh towards pain and suffering. In that case, permanent disability suffered by the injured was to the extent of 45 per cent; whereas, in the present case, 100 per cent disability has been sustained by the appellant due to the injury. Therefore, this case will not be helpful to respondent no.2.

12. The Tribunal has granted the expenses for customized wheel chair to the extent of ₹66,000/-. Considering the age of the appellant and durability / sustainability of the wheel-chair, the Tribunal ought to have granted compensation for two customized wheel chairs. Therefore, the appellant is entitled to the amount of one additional customized wheel chair.

13. Though, there is no material produced before the Tribunal to show future medical expenses, considering the injuries

1 **2022 DGLS (SC) 1509**

and the nature of disability, it is obvious that there may be future medical complications. The Tribunal has awarded a meager amount of ₹25,000/- towards future medical expenses which is required to be enhanced to ₹2 lakhs.

14. In wake of this, the appellant is entitled to the following compensation :

Sr.No.	Compensation Head	Amount
1.	Average income ₹553611 + ₹1,38,402/- (25% towards future prospects)	₹6,92,013/-
	<u>Pecuniary loss</u> Multiplier of 15 as per the judgment of Sarla Verma vs. Delhi Transport Corporation – (2009) 6 SCC 12. (₹6,92,013X 15)	**₹1,03,80,195/-**
2.	Medicine	**₹38,285/-**
3.	Physiotherapy	**₹3,09,400/-**
4.	Bathing, clothing and massage	**₹2,22,000/-**
5.	Medicines purchased from MedPlus	**₹32,865/-**
6.	Feeding and sponging	**₹1,44,000/-**
7.	Customized wheel chairs (for 2 chairs ₹66,000/- each)	**₹1,32,000/-**
8.	Pain and suffering	**₹2,00,000/-**
9.	Loss of amenities	**₹1,00,000/-**
10.	Special diet	**₹50,000/-**
11.	Future medicine expenses	**₹2,00,000/-**
12.	Attendant charges (₹6,000 X 12 X 15)	**₹10,08,000/-**
Total compensation amount (including enhanced)		**₹1,28,16,745/-**
<u>**LESS**</u>**:** Compensation granted by Tribunal		- <u>**₹1,08,25,732/-**</u>
Enhanced amount of compensation		**₹19,91,013/-**

15. In view of the above, the appeal is partly allowed. The award to the extent of the enhanced compensation is modified as under :

The appellant is entitled to the enhanced compensation of ₹19,91,013/- and interest thereon @6.5% per annum from the date of petition till its realization in addition to what has already been awarded. However, the appellant shall not be entitled for interest for the delayed period.

16. Respondent no.3 to deposit the enhanced compensation amount in this Court within a period of eight weeks from today.

17. With this, the appeal stands disposed of. Pending application(s), if any, stand(s) disposed of.

18. Award be drawn accordingly.

JUDGE

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