



2025:DHC:5099



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Judgment Pronounced on : 01.07.2025***+ **MAC.APP. 87/2020****BISHAN SINGH**

.....Appellant

Through: Mr. Manish Maini, Ms. Anjali Singh, Ms. Aastha Chauhan & Ms. Debontina Sinha, Advocates.

versus

CHINKI & ORS (BHARTI AXA GENERAL INSURANCE CO LTD)

.....Respondents

Through: Mr. Harsh Sharan, Advocate for Mr. Navneet Kumar, Advocate for R-3.

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****JUDGMENT****TARA VITASTA GANJU, J.:**

1. The present Appeal seeks to challenge an Award dated 30.10.2019 passed by the learned Judge, MACT, Delhi [hereinafter referred to as "Impugned Award"]. By the Impugned Award, the Appellant has been awarded a total sum of Rs.44,59,000/- along with interest at the rate of 9%.

2. The Appeal has been filed by the Appellant seeking an enhancement of the amount as awarded by the learned Tribunal. The Appellant has expired during the pendency of the Appeal and the legal representatives of the Appellant have stated that they limit their challenge in the present Appeal to an enhancement of the Award to the amount awarded on attendant charges. For the purposes of this judgment, the deceased Appellant and his legal heirs shall interchangeably be referred to as the Appellant.



3. Briefly, the facts are that, on 27.10.2015 at about 6:45 PM, the Appellant, late Shri Bishan Singh, while crossing a road, was hit by a motorcycle, being driven by Respondent No.1 in a rash manner as a result of which the Appellant sustained grievous injuries.

4. A criminal case was registered against the driver of the offending vehicle being motorcycle bearing registration No. DL-11SE-8637 being FIR NO.1376/2015 with Police Station Narela, Delhi. A Detailed Accident Report [DAR] was filed on 03.05.2016.

5. It is the case of the Appellant that the following injuries were sustained by the Appellant due to the accident:

- (i) Severe Head injuries due to which Appellant lying under coma from the date of accident;
- (ii) Left fronto-temporo parietal acute sub-dural hematoma;
- (iii) Diffuse cerebral edema;
- (iv) Left frontal contusions;
- (v) Traumatic sub-arachnoid haemorrhage;
- (vi) Bilateral lower lobe atelectasis;
- (v) Left orbital fracture; and
- (vi) Right forearm bones fracture.

6. The Appellant was admitted into Shraddha Multi-Speciality Hospital, and thereafter, taken to Max Hospital at Shalimar Bagh, Delhi and subsequently shifted to Medanta Global Health Pvt. Ltd. Hospital, Gurgaon. The Appellant had to visit the hospital as an out-patient 80 to 90 times and Appellant along with his family, in order to avail better treatment moved his home to a rented accommodation next to the Medanta Global



Health Pvt. Ltd. Hospital, Gurgaon.

7. The Appellant suffered 100% Permanent Locomotor Disability due to severe head injuries and remained in coma and in prolonged vegetative state from the date of the accident and was being fed through NG tube through a Tracheotomy.

8. At the time of the accident, the Appellant aged about 56 years having retired from Indian Army and was getting a pension. The Appellant before the accident was employed as a field officer/supervisor with Haryana Ex-Services League [HSEL] at monthly emolument of Rs.11,500/-. It is contended that before the accident, the Appellant was active and had healthy lifestyle. However, after the accident, the Appellant had become 100% crippled and remained in comma till his death.

9. Learned Counsel for the Appellant submits that the Appellant required two Attendants daily [12 hours shift] to feed, change clothes, medicines, exercises etc. as he was not able to move a muscle voluntarily and was therefore completely dependent on Attendants for his basic human necessities.

10. It is further contended that Appellant had been taken care of by two attendants. In the daytime from 8:00 AM to 05:00 PM by the attendant namely Sh. Naveen Kumar, who was a professional nursing attendant with a B.Sc in Nursing and had been looking after the Appellant since 20.03.2016. In addition, it is contended that the son of the Appellant, Sh. Manjeet Singh also resigned from his job to take care of the Appellant as well.



11. Learned Counsel for the Appellant submits that before the learned Tribunal, the Appellant had examined the attendant Sh. Naveen Kumar [PW-09] as well as son of the deceased Sh. Manjeet Singh as PW-10. In addition, the employer of Shri Manjeet Singh was also produced as a witness [PW-08] by the Appellant.

12. Sh. Naveen Kumar had deposed that he was providing services to the Appellant at the rate of Rs. 13,000/- per month since 20.03.2016 from 8 AM to 5 PM, four days leave a month, every day on a day care basis. It was clarified that the day care includes suction, tracheostomy, feeding, change of position, administration of medicine, providing nebulization, assisting him to shift from bed to wheelchair and vice-versa, personal hygiene care etc. He further deposed that the son of the Appellant, Sh. Manjeet Singh was also taking care of the Appellant along with him.

12.1 The son of the Appellant, Sh. Manjeet Singh also deposed before the learned Tribunal and in his deposition, it was stated that Sh. Manjeet Singh was employed at a monthly salary of Rs. 16,500/-, however on 05.11.2015, he had resigned from his job to attend his father who is in comma after his accident. He further deposed that the nursing attendant was also providing care to the Appellant during the day, however he was providing care to his father during the evening and night throughout this period.

13. Learned Counsel for the Appellant submits that the Appellant/injured after the accident was under continuous and active medical treatment throughout the seven years for which he was alive and fighting death. In order to substantiate this contention, the Appellant also filed his proof of ongoing medical treatment & bills after the passing of Impugned Award



before the learned Trial Court in form of Additional Medical Bills incurred during his treatment.

13.1 It was contended that the Appellant required two Attendants [day and night] as his feeding was done through NG Tube as he could not eat orally or do any of his daily routine tasks either.

14. Learned Counsel for the Appellant further submits that it is not disputed that after the accident, the Appellant suffered from 100% permanent disability and he was completely bedridden and under continuous medical treatment. He further submits that despite the treatment, the Appellant succumbed to the injuries after 7 years on 16.02.2022.

15. Learned Counsel for the Appellant further submits that the learned Trial Court had held that the Appellant was unable to prove the salary of Rs.13,000/- of the attendant and had instead granted the minimum wages of an unskilled worker as on that date at the rate of Rs.9,178/- per month for one attendant. The learned Trial Court had also directed that the multiplier of 9 is applicable and had accordingly granted a sum of Rs.9,91,224/- i.e., Rs.9,178/- for 12 years, totalling to Rs.9,91,224/- towards attendant charges.

16. Learned Counsel for the Appellant further submits that the learned Trial Court has wrongly set out that only one attendant would be requisite. He submits that for a person suffering from 100% disability, a 24-hours attendant would be required, and thus, at least two attendants [12 hours duty each] would be requisite. Thus, it is contended that the amount of Rs.9,178/- per month be given for two attendants for a period of 7 years,



during which the Appellant was alive. The calculation as set out by the learned Counsel for the Appellant in this behalf is approximately Rs.15.41 lacs.

16.1 Reliance is also placed on the judgment of the Supreme Court in *Kajal v. Jagdish Chand and Others*¹; to submit where there is 100% disability, the requirement would clearly be of 2 attendants.

16.2 Learned Counsel for the Appellant, thus submits that in the light of aforesaid Judgments the compensation needs to be revised under the head of expenses towards the Attendant charges for round the clock basis [2 X 12 hour shift] as that of a skilled-workmen @ Rs. 11,154/- p.m.

MACT Awarded	Claimed by Appellant
Rs.9,178/- (unskilled-workmen)	Rs. 11,154/- (skilled-workmen)
Rs.1,10,136 (Annual 9,178 X 12)	2,67,696/- (Annual 11,154 X 12) X 2 Attendants)
Rs.9,91,224/- (1,10,136 X 9)	Rs. 18,73,872/- (2,67,696 X 7)

17. Learned Counsel for Respondent No. 3/Insurance Company, on the other hand, contended that at no point in time did the Appellant place on record any evidence in respect of the second attendant. He further submits that as per the evidence, the son of the Appellant was residing in the premises along with the Appellant and his family members. It is further contended that the requirement of two attendants has not been set out by the Appellant either in this Appeal or before the learned Trial Court.

¹ (2020) 4 SCC 413



FINDINGS

18. As stated above, the challenge in the present Appeal has been limited as to whether the learned Tribunal erred in awarding attendant charges for one attendant at the rate of an unskilled worker.

19. The record reflects that in addition to other witnesses, the nursing attendant, Sh. Naveen Kumar [PW-9], the son of the Appellant, Sh. Manjeet Singh [PW-10] and the employer of the son of the Appellant [PW-8] were produced before the learned Tribunal. PW-9 deposed that he had a nursing degree and that he was working as a nursing attendant, looking after the Appellant since 20.03.2016 and was being paid Rs.13,000/- per month for the same. It is apposite to set out the relevant extract of the deposition of PW-9 below:

"...I state that I have been working as Nursing Attendant in respect of patient Sh. Bishan Singh who is resident of Gurugram, near, Sabzi Mandi, since 20.03.16 against payment of Rs. 13,000/- per month on day care basis. The said patient is still being looked after by me as Nursing Attendant till date against same payment schedule.

The part of day care includes suction, trachoscopy, feeding, change of position, administration of medicine, providing nebulization assisting him to shift from bed to wheelchair and vice-versa, personal hygiene care etc.

I further state that apart from me, Sh. Manjeet Singh Mann, who is son of aforesaid patient, also helps the patient in the aforesaid activities since the date when I have been providing my services till date:

XXX by Ms. Seema Gupta, Adv for driver and owner and by Sh. Shailendra Rai, adv for insurance company.

The aforesaid degree course is of four years duration and includes internship of 6 months during which practical training is imparted to us. I had done the said internship from Jaipuriya Hospital, Jaipur. There is no separate certificate issued for the internship completed by us.

I am maintaining my bank account since prior to March 2016. Although, I am having PAN Card but I am not assessed to income tax and I have



never filed an ITR till date. I never deposited any part of the amount received by me from family members of patient Sh. Bishan Singh, in my said bank account at any point of time. I can not produce any documents to show that I have been working as Nursing Attendant for day care of Sh. Bishan Singh since 20.03.2016 till date. I am not required to submit any written/intimation either quarterly or half yearly or annually with Rajasthan Nursing Council, disclosing the details of the patients to whom services have been provided by me during particular period. I provide my duty as Nursing Attendant to aforesaid patient from 8:00 am to 5:00 pm and after that, I also provide my services to other patients on call. On an average, I attend about 10 patients in a month. I have not maintained any record in respect of any such patient attended by me since March 2016 till date.....”

[Emphasis supplied]

19.1 A review of the deposition of PW-9 including his cross-examination shows that he had not only set out in detail his work as an attendant to the Appellant, but had also deposed with regard to another attendant, that is, the son of the Appellant [PW-10], in providing nursing services to the Appellant during this period.

19.2 PW-10 has also deposed that he was unable to attend to his job since his father was in comma and hired the services of a nursing attendant for providing care. In order to prove the salary of the son of the Appellant, the statement of Mr. Sanjay Goswami, authorised representative of RC Automotive Pvt. Ltd. was recorded who deposed that Sh. Manjeet Singh was working as a sales consultant at a salary of Rs. 16,500/- per month until October, 2015. He further proved the appointment letter and the resignation letter dated 05.11.2015 as well, as deposed in respect of his employment.

20. A perusal of the Impugned Order shows that the condition of the deceased was not disputed by Respondent No. 3/Insurance Company. It was not disputed that the condition of the Appellant was in a prolonged



vegetative state and continuous medical treatment and care was required. However, learned Counsel for Respondent No. 3/Insurance Company contended that there was possibility that his condition would improve over a period of time. Thus, no amount should be awarded for future treatment. It was further contended on behalf of Respondent No. 3 that majority of the bills of the hospital were reimbursed and only a small amount remains.

20.1 The learned Tribunal however awarded a sum of Rs.5,00,000/- towards the expenses for future treatment. The Impugned Award, however, discusses that since the medical condition of the Appellant is serious and that he has already remained admitted in the hospital on several occasions, the Appellant may still require to be admitted in the hospital in future. Thus, the learned Tribunal has awarded this sum towards expenses for future treatment of the Appellant. The relevant extract of the Impugned Award in this behalf is set out below:

*“35. Now turning back to the facts of the present case. As already discussed above, **the medical condition of claimant is very serious.** He had sustained severe head injuries and he is totally confined to bed right from the date of accident till date and there is very less chance of any improvement in his medical condition in near future. **He constantly-requires medical care and attention. Not only this, considerable amount has already been incurred on his medical treatment from the date of accident till date i.e. during the time span of 3years or so.** He has already remained admitted in hospital from time to time on **several occasions and may still be required to be got admitted in the hospital in future as well.** Following the aforesaid decision delivered by Hon'ble Delhi High Court in the present case, I am also inclined to award a sum of Rs. 5,00,000/- in favour of petitioner/injured towards the expenses for his future treatment. It is ordered accordingly.”*

[Emphasis Supplied]

21. In addition, after examining in detail the awards in various heads, the learned Tribunal deemed it apposite to pass an award in the following amounts:



1.	Medical Expenses	Rs. 10,51,251/-
2.	Expenses for future treatment	Rs. 5,00,000/-
3.	Loss of earning capacity of claimant	Rs. 13,66,200/-
4.	Pain and suffering	Rs. 2,00,000/-
5.	Loss of general amenities and enjoyment of life	Rs. 1,00,000/-
6.	Transportation/boarding lodging charges, conveyance & special diet	Rs. 1,00,000/-
7.	Attendant charges (during treatment) & future	Rs. 9,91,224/-
8.	Loss of expectancy of life	Rs. 1,50,000/-
	Total	Rs. 44,58,675/-
	Rounded off to	Rs. 44,59,000/-

22. The Claimants produced evidence in support of its contentions qua the attendant charges. As stated above, it was deposed that since the injured/deceased is 100% disabled and lying on bed in comma, an attendant would be required and in addition, both the wife of the Appellant [PW-2] as well as the son of the Appellant [PW-10] deposed in this behalf. So as to prove the salary of the son of the Appellant, authorised representative was produced who brought the attendance sheet as well as appointment letter and resignation letter of the said Sh. Manjeet Singh, son of the Appellant in support of its contentions that he was previously earning a sum of Rs.16,500/- per month.

22.1 The attendant, Sh. Naveen Kumar [PW-9] also deposed that he was the attendant since March, 2016 at the payment of Rs. 13,000/- per month on a "day care basis" for the period from 8 AM to 5 PM every day.

23. The learned Tribunal, however found that the nursing attendant could not produce any document to show that he has been working as a



nursing attendant. It was held that he also did not produce any detail with regard to other patients to whom services were provided. The learned Tribunal relied on the cross-examination of the son of the Appellant to give a finding that he could not show any document that PW-9 was being paid Rs.13,000/- per month and held that since no documentary evidence was produced in respect of the fact that the attendant [PW-9] was getting Rs.13,000/- per month as salary and that the son of the Appellant was constrained to leave his job for the treatment of his father, could not be proved. Thus, the learned Trial Court gave a finding that the Appellant has failed to prove that any amount need to be paid that the son of the Appellant i.e., the second attendant, and declined to award any compensation for attendant charges except for one attendant at the rate of Rs. 9,178/- per month which is the minimum wages of an unskilled labour as on the date of the accident.

24. The Supreme Court in *Kajal* case has assessed the cost of an attendant at the wages for a skilled labour. It was further held that given the kind of injuries and the fact that the injured is suffering from incontinence, she would require two attendants for her entire life. The relevant extract is set out below:

“Attendant charges

22. The attendant charges have been awarded by the High Court @ Rs 2500 per month for 44 years, which works out to Rs 13,20,000. Unfortunately, this system is not a proper system. Multiplier system is used to balance out various factors. When compensation is awarded in lump sum, various factors are taken into consideration. When compensation is paid in lump sum, this Court has always followed the multiplier system. The multiplier system should be followed not only for determining the compensation on account of loss of income but also for determining the attendant charges, etc. This system was recognised by this Court in Gobald Motor Service Ltd. v. R.M.K. Veluswami [Gobald Motor



Service Ltd. v. R.M.K. Veluswami, AIR 1962 SC 1]. The multiplier system factors in the inflation rate, the rate of interest payable on the lump sum award, the longevity of the claimant, and also other issues such as the uncertainties of life. Out of all the various alternative methods, the multiplier method has been recognised as the most realistic and reasonable method. It ensures better justice between the parties and thus results in award of “just compensation” within the meaning of the Act.

xxx

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xxx

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25. Having held so, we are clearly of the view that the basic amount taken for determining the attendant charges is very much on the lower side. We must remember that this little girl is severely suffering from incontinence, meaning that she does not have control over her bodily functions like passing urine and faeces. As she grows older, she will not be able to handle her periods. She requires an attendant virtually 24 hours a day. She requires an attendant who though may not be medically trained but must be capable of handling a child who is bedridden. She would require an attendant who would ensure that she does not suffer from bedsores. The claimant has placed before us a notification of the State of Haryana of the year 2010, wherein the wages for skilled labourer is Rs 4846 per month. We, therefore, assess the cost of one attendant at Rs 5000 and she will require two attendants which works out to Rs 10,000 per month, which comes to Rs 1,20,000 p.a., and using the multiplier of 18, it works out to Rs 21,60,000 for the attendant charges for her entire life. This takes care of all the pecuniary damages.”

[Empasis supplied]

25. In the case of *Abhimanyu Pratap Singh v. Namita Sekhon and Anr*², the Supreme Court while relying on the *Kajal* case has held that when the nature of the injuries and disability requires two daily attendants, the multiplier method as provided in the *Kajal* case can be used to calculate attendant charges.

“23. In the head of medical expenses, the MACT or the High Court has not awarded any compensation presumably because the mother of the claimant, who was minor at the time of accident, may have claimed the amount of medical expenses being an IAS officer. But now the claimant has become major, and looking to the nature of injuries, future medical expenses that includes the attendant charges, use of diapers due to loss of urination senses is required to be calculated including future medical expenses. The Tribunal awarded Rs 1,92,000 in the

² (2022)8 SCC 489



head of attendant charges @ Rs 1000 p.m. While the High Court proceeded on the premises that the rate of the attendant charges is variable after every five years, however, the Court calculated the amount @ Rs 2000 thereafter @ Rs 4000 p.m. for a period of 20 years and accordingly determined Rs 9,00,000 making enhancement of Rs 7,08,000 in the said head. **As discussed, if we apply the multiplier method and in view of the judgment of Kajal [Kajal v. Jagdish Chand, (2020) 4 SCC 413 : (2020) 3 SCC (Civ) 27 : (2020) 2 SCC (Cri) 577] , we accept the rate of attendant charges at Rs 5000 p.m. for 12 hours, looking to the nature of injuries and disability the claimant is required two attendants at least within 24 hours then the expenses in the head of attendant charges comes to Rs 10,000 p.m. If we apply the multiplier of 18, the amount comes to Rs 21,60,000.”**

[Emphasis Supplied]

26. The Supreme Court in case of ***Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr***³ held that when an injured person is dependent on an attendant for their daily routine tasks, they require special care and attention from a skilled professional attendant, who is there daily and is aware of what is required to be done given the condition of the injured. The relevant extract is as follows:

*“46. We find that, the approach of the High Court on appreciation of the evidence that the appellant would only be requiring a part time attendant is erroneous. On the contrary, **we are of the opinion that the appellant, would be dependent on an attendant throughout her life and on a full-time basis. Considering her medical situation, the attendant would have to be skilled and not unskilled. The appellant would be requiring special care and attention which can only be provided by a skilled attendant.** It was, therefore, incorrect on the part of the High Court to proceed on the basis that the appellant could be taken care of by an unskilled attendant and that too on a part-time basis.”*

[Emphasis Supplied]

27. Given the law as settled in this behalf, this Court is unable to agree with the findings of the learned Tribunal for attendant charges. In the first instance, given the fact that there was no dispute on the condition of the

³ 2024 SCC OnLine SC 3692



deceased Appellant prior to his demise and the nature of work involved and the settled law in this behalf, the attendant charges should have been awarded as those of a skilled labour, which the Court is informed at the rate of Rs. 11,154/- per month or Rs. 2,67,696/- per annum.

28. So far as concerns, the aspect of second attendant charges, there was no dispute that the condition of the Appellant was in persistent vegetative comatose state for the period from the date of accident i.e., 27.10.2015 till the date of his death. Several witnesses have been produced with respect to the condition of the Appellant. Quite clearly, since he was in coma, there was no question of the Appellant being able to do anything for himself. The attendant, PW-9 has deposed that he worked from 8 AM to 5 PM, thus clearly for the remaining hours, i.e., 5 PM to 8 AM in the morning, the family members of the Appellant would have been working as an attendant to take care of the needs of the Appellant. The son of the Appellant PW-10 resigned from his job to provide care to the Appellant. The evidence shows that the type of care that was required was such that could be handled by a skilled worker.

28.1 Given the round the clock care that was required by the Appellant and in terms of the judgment in the **Kajal** case, the Appellant required two attendants and accordingly, the Claimants should be awarded compensation for two attendants. The Supreme Court in the **Kajal** case and the **Abhimanyu Pratap Singh** case has held that injuries of such nature would require at least two attendants. It is likely that two attendants could not be afforded by the Appellant and thus, the son of the Appellant was required to quit his job to take care of his father. In these circumstances, this Court does not agree with the findings of the learned Trial Court.



CONCLUSION

29. In light of the foregoing judgments, the Impugned Award is modified under the head of Expenses towards attendant charges on two accounts:

- (i) Firstly, the attendant charges shall be taken as that of a skilled labour at the rate of Rs.11,154/- per month; and
- (ii) Secondly, the attendant charges shall be awarded for two attendants for the period from the date of the accident till the date of the demise of the Appellant i.e., from 27.10.2015 to 16.02.2022.

29.1 However, the learned Trial Court is at liberty to take into account the amounts awarded for future medical treatment while undertaking the calculation. Both parties are at liberty to agitate in respect thereof, before the learned Tribunal.

30. The Appeal is accordingly partly allowed to the extent as set out hereinabove. The Claimants shall be entitled to be awarded an enhanced amount as set out above. The additional compensation shall be paid to the Claimants at the rate of interest that has been stipulated in the Impugned Award.

31. The parties shall appear before the learned MACT on 16.07.2025 to enable the re-calculation of the awarded amount in terms of the findings given by this Court.

32. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 01, 2025/r