

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-3740-2008 (O&M)

Decided on: 21.05.2026

SHAM SUNDER GUPTA (SINCE DECEASED) THROUGH HIS LRS.

.....Appellant

Vs.

RAJ KUMAR AND ORS.

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Nitin Jain, Advocate
Mr. Khushan Dutta, Advocate
for the appellant.

Mr. Nitin Banwala, Advocate
for respondents No.1 and 2.

Mr. R.C. Gupta, Advocate
for respondent No.3.

None for respondents No.4 and 5.

Mr. Neeraj Khanna, Advocate
for respondent No.6.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 06.06.2007 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (in short '1988 Act'), by the learned Motor Accident Claims Tribunal, Jind (in short 'the Tribunal') for enhancement of compensation, granted to the appellant/claimant to the tune of Rs.24,86,000/- along with 6% interest on



account of injuries sustained by the appellant/claimant – Sham Sunder (since deceased) in a motor vehicular accident, occurred on 26.11.2003.

2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case is not required to be reproduced and is skipped herein for the sake of brevity.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

3. The learned counsel for the appellant/claimant (since deceased) contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced. He furthermore contends that injured (since deceased) rendered 100% permanent disabled due to injuries suffered by him in accident in question. He furthermore contends that he remained hospitalized for considerable period of time and ultimately unfortunately died on 26.03.2015 on the account of injuries suffered by him in accident. Therefore, he prays that the present appeal be allowed and the compensation awarded to the appellant/claimant be enhanced, as per latest law.

4. *Per contra*, learned counsel for the respondents, however, contends that the amount of compensation as assessed by Ld. Tribunal, has rightly been granted to the appellant/claimant. Therefore, they pray for dismissal of the present appeal.

5. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

6. At the outset it is pertinent to note that, owing to the nature of his medical condition and the continuing requirement of advanced medical care, the legal representatives of the appellant/claimant was constrained to approach this



Court by filing application i.e. **CM-2166-CII-2026** seeking permission to lead additional evidence to prove that treatment record, bills etc. (Annexure A-31 to A-45). By way of the said application, the legal representatives of the appellant/claimant sought to place on record voluminous medical documentation to substantiate the assertion that the injured (since deceased), who was paralyzed and 100% disabled had to undergo certain medical treatments before his demise on 26.03.2015. He furthermore contends that documents Annexure A-31 to A-45 are required to be considered for proper adjudication of the case. In the said application, the following order dated 06.03.2006 was passed by this Court:-

“1. The applicant(s)/appellant(s) has filed the present application for placing on record the treatment record, bills etc. (Annexures A-31 to A-45) as additional evidence in the present appeal i.e. FAO-3740-2008.

2. Learned counsel for the applicant(s)/appellant(s) contends that during the pendency of the appeal, appellant, who was paralysed and 100% disabled, had died on 26th March, 2015. He further contends that before death, he had to undergo certain medical treatments, which are placed on record vide the present application as additional evidence (Annexure A-31 to A-45). He further contends that applicant(s)/appellant(s) failed to produce the treatment record, bills etc. before learned Tribunal. He further contends that these documents are required to be considered for proper adjudication of the appeal and if the same are not verified/taken into consideration, then the applicant(s)/appellant(s) will suffer irreparable loss.

3. Learned counsel for respondent No.3 and 6 – Insurance Companies contend that the applicant(s)/appellant(s) failed to produce the documents before the learned Tribunal. They further contend that the authenticity of these treatment cannot



be ascertained at this stage. Therefore, they pray that the present application may be dismissed.

4. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

5. After considering the facts mentioned in the application, the same is allowed. Annexure A-31 to A-45 are taken on record.

6. After bare reading of application as well as documents placed on record as Annexure A-31 to A-45, justice demands that these can be considered. Therefore, it would be in the interest of justice to remand the matter to learned Tribunal for consideration of the documents produced as an additional evidence before this Court.

7. For the foregoing reasons, the matter is remanded to learned Tribunal with a direction to verify the documents placed on record as additional evidence (Annexure A-31 to A-45) after hearing the parties.

8. Considering that the accident occurred more than a decade ago, the learned Tribunal is directed to complete the aforesaid exercise and send the report to this Court within a period of one (01) month from today.

9. Needless to say that the parties shall be granted opportunity of being heard and to lead their evidence (chief as well as cross). Parties are directed to appear before the learned Tribunal on 18.03.2026.

10. Report of the Tribunal be awaited for 05.05.2026.”

7. Pursuant thereto, the learned Tribunal submitted its report dated 18.04.2026 after evaluating the entire oral as well as documentary evidence placed on record. The relevant extract of the report dated 18.04.2026 passed by learned MACT, Jind, is reproduced as under:-

“11. This Tribunal was required to verify these documents by taking additional evidence. From the evidence, these are



verified and there is no evidence led by the respondents to contradict the same. It is pertinent to mention that at page no. 95 of Annexure A39, there is a bill of 3000/- of OP Jindal Institute of Cancer and Research, Hisar but the original thereof has not been produced on the record. It is also pertinent to mention that the originals of Annexures A33 i.e. discharge summary of Maharaj Agrasen Hospital (page 22), Medical bill of 12,476/- of the same hospital dated 15.06.2010 (page no. 23, 24 and 25), Annexure A34 i.e. prescription slip dated 28.01.2010 of Manipal Hospital (page 26 to 28), Annexure 35 i.e. Discharge summary of Neurogen Brain and Spine Institute (page 29-39), Annexure A36 i.e. Discharge Summary of Sadbhavna Medical & Hear Institute (page no. 40-43), Annexure A39 i.e. discharge card of OP Jindal Institute of Medical Sciences, Hisar (page no. 70-94), medical bill of the same hospital (page no. 96), Annexure A41 i.e. Discharge summary of Delhi Hospital & Nursing Home, Delhi (page no. 116-124), Annexure A43 i.e. follow up and discharge card of PGIMS, Rohtak (page no. 143-147) and A-45 i.e. invoices/bills etc. (page no. 164- 217) have though been produced on the record but no evidence in support of these documents has been led. Hence, the same could not be verified.

12. The learned counsel for the petitioner has stated that the Lrs of deceased petitioner have shown their inability to prove the authenticity of these documents and therefore, they shall leave their claim regarding these documents before the Hon'ble Punjab & Haryana High Court.

13. Accordingly, with the submission that the documents as mentioned in para no. 10 i.e. Ex. P1 to Ex. P46 and Ex. PW2/C could only be verified from the evidence of the parties. The report is hereby prepared for kind perusal of the Hon'ble Punjab & Haryana High Court for its presentation before the Hon'ble Punjab & Haryana High Court on 05.05.2026.”



8. This Court now proceeds to examine and decide the enhancement of compensation in view of the above referred to report dated 18.04.2026.

SETTLED LAW ON COMPENSATION

9. Hon'ble Supreme Court has settled the law regarding grant of compensation with respect to the disability. The Apex Court in the case of **Raj Kumar Vs. Ajay Kumar and Another (2011) 1 Supreme Court Cases 343**, has held as under:-

General principles relating to compensation in injury cases

5. *The provision of the Motor Vehicles Act, 1988 ('Act' for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. (See C.K. Subramonia Iyer v. T. Kunhikuttan Nair, AIR 1970 Supreme Court 376, R.D. Hattangadi v. Pest Control (India) Ltd., 1995 (1) SCC 551 and Baker v. Willoughby, 1970 AC 467).*

6. *The heads under which compensation is awarded in personal injury cases are the following :*

Pecuniary damages (Special Damages)

(i) *Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.*

(ii) *Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising :*

(a) *Loss of earning during the period of treatment;*

(b) *Loss of future earnings on account of permanent disability.*

(iii) *Future medical expenses. Non-pecuniary damages (General Damages)*

(iv) *Damages for pain, suffering and trauma as a consequence of the injuries.*

(v) *Loss of amenities (and/or loss of prospects of marriage).*

(vi) *Loss of expectation of life (shortening of normal longevity).*



In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

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19. We may now summarise the principles discussed above :

- (i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.*
- (ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).*
- (iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.*
- (iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.*

20. The assessment of loss of future earnings is explained below with reference to the following

Illustration 'A' : *The injured, a workman, was aged 30 years and earning Rs. 3000/- per month at the time of accident. As per Doctor's evidence, the permanent disability of the limb as a consequence of the injury was 60% and the consequential permanent disability to the person was quantified at 30%. The loss of earning capacity is however assessed by the Tribunal as 15% on the basis of evidence, because the claimant is continued in employment, but in a lower grade. Calculation of compensation will be as follows:*

- a) Annual income before the accident : Rs. 36,000/-.*
- b) Loss of future earning per annum
(15% of the prior annual income) : Rs. 5400/-.*
- c) Multiplier applicable with reference to age : 17*
- d) Loss of future earnings : (5400 x 17) : Rs. 91,800/-*

Illustration 'B' : *The injured was a driver aged 30 years, earning Rs. 3000/- per month. His hand is amputated and his permanent disability is assessed at 60%. He was terminated from his job as he could no longer drive. His chances of getting any other employment*



was bleak and even if he got any job, the salary was likely to be a pittance. The Tribunal therefore assessed his loss of future earning capacity as 75%. Calculation of compensation will be as follows :

- a) Annual income prior to the accident : Rs. 36,000/- .
- b) Loss of future earning per annum
(75% of the prior annual income) : Rs. 27000/-.
- c) Multiplier applicable with reference to age : 17
- d) Loss of future earnings : (27000 x 17) : Rs. 4,59,000/-

Illustration 'C' : The injured was 25 years and a final year Engineering student. As a result of the accident, he was in coma for two months, his right hand was amputated and vision was affected. The permanent disablement was assessed as 70%. As the injured was incapacitated to pursue his chosen career and as he required the assistance of a servant throughout his life, the loss of future earning capacity was also assessed as 70%. The calculation of compensation will be as follows :

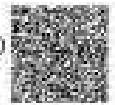
- a) Minimum annual income he would have got if had been employed as an Engineer : Rs. 60,000/-
 - b) Loss of future earning per annum
(70% of the expected annual income) : Rs. 42000/-
 - c) Multiplier applicable (25 years) : 18
 - d) Loss of future earnings : (42000 x 18) : Rs. 7,56,000/-
- [Note : The figures adopted in illustrations (A) and (B) are hypothetical. The figures in Illustration (C) however are based on actuals taken from the decision in Arvind Kumar Mishra (supra)].

10. Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680] has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (A) Deduction of personal and living expenses to determine multiplicand;
- (B) Selection of multiplier depending on age of deceased;
- (C) Age of deceased on basis for applying multiplier;
- (D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;
- (E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

“ Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses



should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.”

11. Hon’ble Supreme Court in the case of **Erudhaya Priya Vs. State Express Tran. Corpn. Ltd.** 2020 ACJ 2159, has held as under:-

*“ 7. There are three aspects which are required to be examined by us:
(a) the application of multiplier of '17' instead of '18';*

The aforesaid increase of multiplier is sought on the basis of age of the appellant as 23 years relying on the judgment in National Insurance Company Limited v. Pranay Sethi and Others, 2017 ACJ 2700 (SC). In para 46 of the said judgment, the Constitution Bench effectively affirmed the multiplier method to be used as mentioned in the table in the case of Sarla Verma (Smt) and Others v. Delhi Transport Corporation and Another, 2009 ACJ 1298 (SC) . In the age group of 15-25 years, the multiplier has to be '18' along with factoring in the extent of disability.

The aforesaid position is not really disputed by learned counsel for the respondent State Corporation and, thus, we come to the conclusion that the multiplier to be applied in the case of the appellant has to be '18' and not '17'.

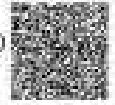
(b) Loss of earning capacity of the appellant with permanent disability of 31.1%

In respect of the aforesaid, the appellant has claimed compensation on what is stated to be the settled principle set out in Jagdish v. Mohan & Others, 2018 ACJ 1011 (SC) and Sandeep Khanuja v. Atul Dande & Another, 2017 ACJ 979 (SC). We extract below the principle set out in the Jagdish (supra) in para 8:

"8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:

- (i) Pain, suffering and trauma resulting from the accident;*
- (ii) Loss of income including future income;*
- (iii) The inability of the victim to lead a normal life together with its amenities;*
- (iv) Medical expenses including those that the victim may be required to undertake in future; and*
- (v) Loss of expectation of life."*

[emphasis supplied]



The aforesaid principle has also been emphasized in an earlier judgment, i.e. the Sandeep Khanuja case (supra) opining that the multiplier method was logically sound and legally well established to quantify the loss of income as a result of death or permanent disability suffered in an accident.

In the factual contours of the present case, if we examine the disability certificate, it shows the admission/hospitalization on 8 occasions for various number of days over 1½ years from August 2011 to January 2013. The nature of injuries had been set out as under:

"Nature of injury:

- (i) compound fracture shaft left humerus*
- (ii) fracture both bones left forearm*
- (iii) compound fracture both bones right forearm*
- (iv) fracture 3rd, 4th & 5th metacarpals right hand*
- (v) subtrochanteric fracture right femur*
- (vi) fracture shaft femur*
- (vii) fracture both bones left leg*

We have also perused the photographs annexed to the petition showing the current physical state of the appellant, though it is stated by learned counsel for the respondent State Corporation that the same was not on record in the trial court. Be that as it may, this is the position even after treatment and the nature of injuries itself show their extent. Further, it has been opined in para 13 of Sandeep Khanuja case (supra) that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration.

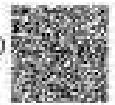
We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment in National Insurance Co. Ltd. case (supra), more specifically para 61(iii), considering the age of the appellant, would be 50% of the actual salary in the present case.

(c) The third and the last aspect is the interest rate claimed as 12%

In respect of the aforesaid, the appellant has watered down the interest rate during the course of hearing to 9% in view of the judicial pronouncements including in the Jagdish's case (supra). On this aspect, once again, there was no serious dispute raised by the learned counsel for the respondent once the claim was confined to 9% in line with the interest rates applied by this Court.

CONCLUSION

8. The result of the aforesaid is that relying on the settled principles, the calculation of compensation by the appellant, as



set out in para 5 of the synopsis, would have to be adopted as follows:

<i>Heads</i>	<i>Awarded</i>
<i>Loss of earning power (Rs.14,648 x 12 x 31.1/100)</i>	<i>Rs. 9,81,978/-</i>
<i>Future prospects (50 per cent addition)</i>	<i>Rs.4,90,989/-</i>
<i>Medical expenses including transport charges, nourishment, etc.</i>	<i>Rs.18,46,864/-</i>
<i>Loss of matrimonial prospects</i>	<i>Rs.5,00,000/-</i>
<i>Loss of comfort, loss of amenities and mental agony</i>	<i>Rs.1,50,000/-</i>
<i>Pain and suffering</i>	<i>Rs.2,00,000/-</i>
<i>Total</i>	<i>Rs.41,69,831/-</i>

The appellant would, thus, be entitled to the compensation of Rs. 41,69,831/- as claimed along with simple interest at the rate of 9% per annum from the date of application till the date of payment.

12. A perusal of the impugned award reveals that the injured-Sham Sunder Gupta (since deceased) was 48 years of age at the time of the accident. Since the factum of age is not dispute, the learned tribunal has rightly considered the age of the claimant as 48 years by placing reliance on the evidence on record including MLR. However, the learned Tribunal erred in not applying the multiplier method while assessing the compensation. As per the settled law multiplier of 13 would be applicable.

13. A perusal of the disability certificate (Ex.P-500) reveals that injured (since deceased) has suffered 100% permanent disability on account of fracture D9 with paraplegia, fracture dislocation right hip, fracture lower third left femur, fracture left tibia condyle undisplaced, bilateral fracture ribs with haemothorax large sacral pressure sore, acute renal failure, omental beed laparotomy,



septicemia and stock ventilated, multiple abrasions. The said disability certificate stands duly proved on record through the testimony of PW-13, Dr. Subhash Chander, PGI, Rohtak. He categorically deposed that injured (since deceased) suffered fracture in his spinal cord and his lower limbs were totally damaged. He further testified that the injured (since deceased) cannot sit on the bed of his own and has no sensation of latrine and urine and a pipe is permanently installed for collecting urine catheter. The medical evidence, thus, conclusively establishes that the injured (since deceased) has suffered severe and permanent physical impairment and unfortunately died on 26.03.2015 due to the said injuries.

14. A further perusal of the award reveals that the injured (since deceased) was a businessman. It has further come on record that on account of the injuries sustained, injured (since deceased) has been rendered incapable of carrying on his business or performing even routine activities, resulting in substantial financial loss. It cannot be overlooked that the injured (since deceased), due to the unfortunate accident, has suffered not only grave physical disability but also a complete loss of his earning capacity.

15. At this juncture, it is apposite to reiterate that the Motor Vehicles Act is a beneficial legislation intended to provide fair, adequate, and just compensation to victims of road accidents. The concept of “just compensation” has been authoritatively explained by the Hon’ble Supreme Court in **State of Haryana and another v. Jabir Kaur and others, AIR 2003 SC 3696**, wherein it was held that compensation must strike a balance—it should neither be a windfall nor a pittance, but must be fair, reasonable, and commensurate with the loss suffered. The determination, though not susceptible to precise mathematical calculation,



must be based on a judicious and rational assessment of the facts and circumstances of each case.

16. Applying the aforesaid principles to the present case, this Court is of the considered view that although the injured (since deceased) has been certified to have suffered 100% permanent physical disability, the impact of such disability on his earning capacity is far more severe. Having regard to the nature of injuries and the avocation of the injured (since deceased), for all practical purposes, rendered wholly incapable of earning his livelihood as before. Consequently, his **functional disability is assessed at 100%** for the purpose of computation of compensation.

17. So far as the monthly income of the injured (since deceased) is concerned, Income Tax Returns Ex.P-951 to Ex.P-506 were placed on record, which shows yearly income of deceased as Rs.1,30,000/-. Consequently, this Court, by placing reliance on Income Tax Returns deems it fit to assess the monthly income of the injured (since deceased) at **₹10,855/-** per month.

18. A further perusal of the award reveals that the learned Tribunal erred in not adding future prospects to the income of the injured (since deceased). Considering the age of the injured (since deceased) (48 years) **25%** is to be added as future prospects.

19. A further perusal of the record shows that the learned Tribunal has awarded the compensation on the lower side to the injured (since deceased) under the head of Pain and suffering, which is required to be enhanced.

20. It is trite that permanent disability suffered by an individual not only impairs his cognitive abilities and his physical facilities, but there are multiple non-quantifiable implications for the victim. Further, the very fact that healthy

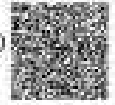


person turns into invalid being deprived of normal companionship and incapable of leading a productive life makes one suffer loss of dignity.

21. As per the facts of the case the injured (since deceased) suffered grievous injuries on his person including fracture D9 with paraplegia, fracture dislocation right hip, fracture lower third left femur, fracture left tibia condyle undisplaced, bilateral fracture ribs with haemothorax large sacral pressure sore, acute renal failure, omental bleed laparotomy, septicemia and stock ventilated, multiple abrasions. Furthermore, he stayed as an indoor patient for a prolonged period of time in different hospitals in all over India. Dr. Subhash Chander, PGI, Rohtak categorically deposed that injured (since deceased) suffered fracture in his spinal cord and his lower limbs were totally damaged and issued disability certificate (Ex.P-500), which shows permanent disability of 100%. This fairly concludes the fact that the injured (since deceased) have suffered immense amount of pain and agony due to the accident in question.

22. The Hon'ble Apex Court in the case of '**KS Muralidhar versus R Subbulakshmi and another 2024 INSC 886**' highlighted the intangible but devastating consequence of pain and suffering. The relevant portion of the same is reproduce as under:-

“15. Keeping in view the above-referred judgments, the injuries suffered, the 'pain and suffering' caused, and the life-long nature of the disability afflicted upon the claimant-appellant, and the statement of the Doctor as reproduced above, we find the request of the claimant-appellant to be justified and as such, award Rs.15,00,000/- under the head 'pain and suffering', fully conscious of the fact that the prayer of the



claimant-appellant for enhancement of compensation was by a sum of Rs. 10,00,000/-, we find the compensation to be just, fair and reasonable at the amount so awarded.”

23. Therefore, in view of the above judgment and facts and circumstances of the present case, this Court deems it appropriate to grant compensation of **Fifteen lakhs** under the head of pain and suffering.

24. Further perusal of the record shows that the injured (since deceased) suffered various grievous injuries on his body making his life miserable. As a result, he had to depend on others for his daily activities and likely to have employed an attendant to assist him for his necessary physical movements. This Court has dealt with similar issue in case titled as ***Ajay Kumar vs. Jasbir Singh and others, passed in FAO No 1356-2007, decided on 18.02.2025.*** The relevant portion of the same is reproduced as under:-

“ATTENDANT CHARGES

36. So far as attendant charges is concerned, the Hon’ble Apex Court in ***Kajal Vs. Jagdish Chand and others, 2020(2)R.C.R.(Civil) 27***, held that where injured was a female child aged about 12 years and date of the accident was 18.10.2007 and it was observed by the Hon'ble Apex Court that ***to determine the attendant charges, Multiplier system should be applied.*** Relevant paragraphs No. 22 and 25 of the aforesaid judgment are as under:

"22. The attendant charges have been awarded by the High Court at the rate of Rs.2,500 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

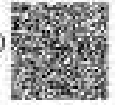


facts are taken into consideration. When compensation is paid in lump sum, this court has always followed the multiplier system. The multiplier system should be followed not only for determining the compensation on account of loss of income but also for determining the attendant charges, etc. This system was recognized by this Court in Gobald Motor Service Ltd. v. R.M.K. Veluswami, 1958-65 ACJ 179 (SC). 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 recognized 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.

23. xxxxx

24. xxxxx

25. *Having held so, we are clearly of the view that the basic amount taken for determining 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 bed sores. 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.4,846 per month. We, therefore, assess the cost of one attendant at Rs.5,000 and she will require two attendants which works out to Rs.10,000/- per month, which comes to Rs. 1,20,000/- per*



annum, and using the multiplier of 18 it works out Rs. 21,60,000 for attendant charges for her entire life. This take care of all the pecuniary damages.

37. *In view of the above as per the Disability Certificate, which is 100% and which requires full-time attendant, therefore, it would be appropriate to decide the attendant charges accordingly. 100% disability would require day and night attendants, meaning thereby two attendants would be required. Further 100% disability of the appellant-claimant would require trained attendant i.e. who should have knowledge of nursing and experience as well. Further the minimum amount which an attendant would demand is Rs.10,000/-. Since two attendants are required for 100% disability, it would be appropriate to take the minimum amount of Rs.10,000/- each of two attendants i.e. amounting to Rs.20,000/- for two attendants.*

38. *In the instant case, there is substantial medical evidence establishing that the injured appellant-claimant has suffered from a 100% disability of the lower limb, as per Ex. P-4. Over the past 20 years since the accident on 31.05.2005, the injured has faced significant challenges in leading a normal life. Furthermore, medical testimony confirms that the injured person is unable to carry out daily activities independently.*

39. *Applying the principles laid down in **Kajal's case (supra)** it is evident that the appellant-claimant requires continuous assistance from two attendants for 24 hours a day. In **Kajal's case (supra)**, the Hon'ble Supreme Court emphasized that the multiplier system must be followed to determine attendant charges, taking into account factors such as longevity, inflation, interest rates, and the uncertainties of life. The Court also highlighted that an individual with severe disabilities requires dedicated attendants, even if they are not medically trained, to ensure proper care and prevent further complications such as bedsores.*

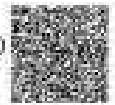


25. In view of the above judgment and considering age and disability suffered by the injured (since deceased), the injured (since deceased) is entitled to attendant charges to the tune of **Rs.8,00,000/-**.

26. So far as compensation awarded under the head of medical expenses is concerned, by placing on reliance on report dated 18.04.2026 submitted by learned MACT, Jind, a sum of Rs.17,50,145/- is awarded under the head of medical expenses incurred by legal heirs of injured (since deceased) till his unfortunate demise.

27. A further perusal of the award reveals that the injured (since deceased) has passed away during the pendency of the appeal, therefore, the amount awarded under the head of pain and suffering, medical expenses, transportation charges, special diet became part of his estate and legal heirs of injured (since deceased) are liable to the compensation awarded under the above mentioned heads even after his death.

28. The legal position on this issue stands conclusively settled by the Hon'ble Supreme Court in **Dhannalal @ Dhanraj (Dead) v. Nasir Khan, 2025 INSC 1177**. The Apex Court authoritatively held that the amounts computed towards medical expenses—both incurred and future—as well as expenses for a personal attendant and the amount awarded under the head of pain and suffering, are liable to be sustained where the injured victim survived for a considerable period after the accident. In such circumstances, the Court observed that these amounts, having accrued during the lifetime of the injured, form part of the estate of the injured-victim. Consequently, upon the death of the injured, the legal heirs are legally entitled to recover the said amounts as representatives of the estate.



29. The relevant extract of the aforesaid judgment is reproduced hereunder:

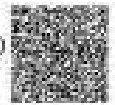
“12. The award of the Tribunal as modified and enhanced by the High Court determined a total award of Rs.5,52,095/- as computed under mental agony, pain and suffering, nourishment, transportation and medical expenses, incurred and future, as also expenses for a personal attendant which has to be sustained, since the injured had lived for 11 years after the accident, in a vegetative state. That has already become a part of the estate of the injured-victim.”

30. A further perusal of the award reveals that no compensation has been awarded by the learned Tribunal under the heads of special diet, transportation charges, loss of amenities of life. Therefore, the award requires indulgence of this Court.

RELIEF

31. In view of the above, the present appeal is **allowed** and award dated 06.06.2007 is modified. Accordingly, as per the settled principles of law as laid down by Hon’ble Supreme Court as mentioned above, the legal heirs of injured (since deceased) are held entitled to the enhanced amount of compensation as calculated below:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
<i>1</i>	<i>Income</i>	<i>Rs.10,855/-</i>
<i>2</i>	<i>Loss of future prospects (25%)</i>	<i>Rs.2,714/- (25% of Rs. 10,855/-)</i>
<i>3</i>	<i>Annual Income</i>	<i>Rs.1,62,828/- (Rs.13569/- X 12)</i>
<i>4</i>	<i>Loss of future earning on account of 100% disability</i>	<i>Rs.1,62,828/- (Rs.1,62,828/- X 100%)</i>
<i>5</i>	<i>Multiplier of 13</i>	<i>Rs.21,16,764/- (Rs.1,62,828/-X 13)</i>
<i>6</i>	<i>Medical Expenses (old bills)</i>	<i>Rs.17,79,825/- (rounded off Rs.18,00,000)</i>
<i>7</i>	<i>Pain and suffering</i>	<i>Rs.15,00,000/-</i>
<i>8</i>	<i>Attendant Charges</i>	<i>Rs.8,00,000/-</i>
<i>9</i>	<i>Transportation Charges</i>	<i>Rs.2,00,000/-</i>



10	<i>Loss of amenities of life</i>	<i>Rs.2,00,000/-</i>
11	<i>Special Diet</i>	<i>Rs.2,00,000/-</i>
12	<i>Medical bills according to report</i>	<i>Rs.17,50,145/-</i>
13	<i>Accessories, nimbus bed, wheelchair, hydraulic bed</i>	<i>Rs.2,00,000/-</i>
14	Total compensation awarded:-	Rs.87,66,909/-
15	Deduction:- <i>Amount awarded by Tribunal</i>	Rs.24,86,000/-
16	Enhanced amount of compensation	Rs.62,80,909/- (87,66,909 – 24,86,000)

32. So far as the interest part is concerned, as held by Hon'ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma 2019 ACJ 3176** and **R.Valli and Others VS. Tamil Nadu State Transport Corporation (2022) 5 Supreme Court Cases 107**, the enhanced amount so calculated shall carry an interest @ 9% per annum from the date of filing of the claim petition, till the date of realization.

33. Consequently, as per award dated 06.06.2007 respondents (jointly and severally) are directed to deposit the enhanced amount along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed to disburse the enhanced amount of compensation along with interest to the legal representatives of injured (since deceased). The legal representatives of injured (since deceased) are directed to furnish their bank account details to the Tribunal.

34. Pending application(s), if any, also stand disposed of.

21.05.2026

Ayub/Sahil

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No