



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(i) FAO-2170-2013 (O&M)

Iffco Tokio General Insurance Company

...Appellant

VERSUS

Ashkara Jain and another

...Respondents

(ii) FAO-2970-2013 (O&M)

Ashkara Jain

...Appellant

VERSUS

Braham Singh and another

...Respondents

**Reserved on: April 02, 2026
Date of Pronouncement: April 09, 2026
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CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Neeraj Khanna, Advocate for
 Mr. Ravinder Arora, Advocate
 for the appellant (in FAO-2170-2013) and
 for respondent No.2 (in FAO-2970-2013).

Mr. A.K.Chopra, Senior Advocate, with
Mr. Vidul Kapoor, Advocate
for respondent No.1 (in FAO-2170-2013) and
for the appellant (in FAO-2970-2013).

Mr. Rahul Noorie, Advocate for
Mr. Abhimanyu Singh, Advocate
for respondent No.2 (in FAO-2170-2013) and
for respondent No.1 (in FAO-2970-2013).

ARCHANA PURI, J.

These are two appeals, filed by the insurance company as well

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as the claimant, to question the adequacy of the compensation awarded by learned Motor Accident Claims Tribunal vide Award dated 19.01.2013, to Ashkara Jain, who had sustained injuries, in a motor vehicular accident.

FAO-2170-2013 has been filed by the insurance company, thereby, seeking reduction of the compensation awarded by learned Tribunal. **FAO-2970-2013** has been filed by the injured-claimant through her father, thereby, calling upon for the enhancement of the compensation.

For the convenience of discussion, the parties are referred to as making appearance before learned Tribunal.

Suffice to consider that the accident had taken place on 05.06.2011. On appraisal of the evidence, brought on record, learned Tribunal had held the accident to have been caused, due to rash and negligent driving of car bearing registration No.HR-26AS-8929, driven by respondent No.1-Braham Singh and the same resulted into causing of severe and grave injuries to Ashkara Jain, who was 9 years old and student of 4th standard, at the relevant time.

The claim petition was filed through Anand Jain, father of minor injured Akshara Jain.

As per the claim, the accident in question had caused devastating injuries to Ashkara Jain, as a result whereof, she had suffered 100% permanent disability. She is in vegetative state with chances of improvement, being remote. In the claim petition, the detail of the injuries and the extent of hospitalization as well as the kind of treatment extended to Ashkara Jain has been given, but however, the same shall be referred to in the later portion of the judgment.



Anand Jain, father of the injured, stepped into witness box as PW-6, who deposed about the age of the claimant and kind of injuries sustained by her, in the accident in question, as a result whereof, she became completely bed ridden and was in persistent vegetative state and was unable to perform any activity, such as, to see, open mouth, cry, talk, smile, move etc., as her brain is not functional. The intake of food is also through PEG tube. Further also, the father deposed about the kind of minimum movement of body of the claimant and there being no cohere between various parts of the body.

Even further, the doctors associated in the treatment, have been examined, besides the witnesses, who proved the bills of the medical expenses incurred and also the doctor, who was member of the board of doctors, who assessed the disability of Ashkara Jain.

On appraisal of the evidence in entirety and limiting ‘**future medical expenses**’ of the claimant for a period of two years and also assessing ‘**pain and suffering**’ only qua this period, learned Tribunal had awarded compensation to the extent of Rs.78,10,000/-, as detailed in tabular form in paragraph No.64 of the impugned Award, is reproduced as herein given:-

Head	Amount of compensation
Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure	Rs.40,00,000/-
Loss of future earning on account of permanent disability	Rs.02,70,000/-
Future medical expenses for two years which can be further sought depending upon her health and	Rs.21,60,000/-



longevity	
Damages for pain and sufferings for two years, which can be further sought depending upon her health and longevity	Rs.4,80,000/-
Loss of amenities and loss of prospects of marriage	Rs.6,00,000/-
Expectation of life	Rs.3,00,000/-
Total	Rs.78,10,000/-

The aforesaid ‘**work on**’ of the compensation, as per settled principle of law, do call for re-computation.

The Motor Vehicles Act is in the nature of social welfare legislation and its provisions make it clear that compensation should be ‘**justly**’ determined. A person therefore, is not only to be compensated for the injury suffered due to the accident, but on account of the loss suffered by him/her, as a consequence of the impact of the accident, more particularly, considering his/her ability to lead life, he/she led, prior to the life altering event. A three Judges’ Bench in ***Jagdish Vs. Mohan and others, 2018 (4) SCC 571***, made the following relevant observations, on the intrinsic value of human life and dignity, that is attempted to be recognised, through such compensatory awards:-

“...the measure of compensation must reflect a genuine attempt of the law to restore the dignity of the being. Our yardsticks of compensation should not be so abysmal as to lead one to question whether our law values human life. If it does, as it must, it must provide a realistic recompense for the pain of loss and the trauma of suffering. Awards of compensation are not law's doles. In a discourse of rights, they constitute entitlements under law.”

The Courts should, as such, strive to provide a realistic



recompense, having regard to the realities of life, both in terms of assessment of the extent of disability and its impact, including the income generating capacity of the claimant and not only that, even the impact of the accident on his/her life, on account of his/her physical or mental disability. The Courts should be mindful of the fact that even though, the physical disability may be on the lesser count, but the functional disability, on account of injury sustained, can be on a higher side.

The extent of economic loss, arising from a disability, may not be measured in proportions, to the extent of permanent disability. In this regard, suffice to make reference to the decision rendered by the Supreme Court in ***Raj Kumar Vs. Ajay Kumar and Anr., 2011 (1) SCC 343***, wherein, the Hon'ble Supreme Court, brought out the difference between permanent disability and functional disability, resulting in the loss of earning capacity. It was laid down that the compensation, on account of loss of earning capacity, has to be granted, in accordance with kind of the job undertaken by the victim of the motor accident.

The test for determining the effect of permanent disability, on future earning capacity involves three steps, as was laid down in ***Raj Kumar's case (supra)***, which was further reiterated by the Hon'ble Supreme Court in ***Chanappa Nagappa Muchalagoda vs. Divisional Manager, New India Insurance Company Limited, 2020 (1) SCC 796***. The efforts of the Courts must always be to substantially ameliorate the misery of the claimant and recognize his/her actual needs, by accounting for the ground realities. However, the measures should be in correct proportion.

Thus, it goes without saying that in matters of determination of



compensation, the Tribunals/Courts are statutorily bound with the responsibility of fixing '**just**' compensation. Obviously, it is true that determination of '**just**' compensation, cannot be equated to bonanza, but at the same time, it ought not to be a niggardly amount. The concept of '**just compensation**' obviously suggest an application of fair and equitable principles and reasonable approach, on the part of Tribunals/Courts. However, as stated aforesaid, the measures have to be applied proportionately.

In *Smt.Sarla Verma vs. Delhi Transport Corporation and anr.*, **2009(3) RCR (Civil) 77**, it was held by the Court that the '**just**' compensation is adequate compensation and the Award must be just that-'**no less and no more**'. The plea of victim suffering from a cruel twist of fate, when asking for some more, is not extravagant, but it is for seeking appropriate recompense, to negotiate with the unforeseeable and the fortuitous twists, in his/her impaired life. Therefore, while the money awarded by Courts, can hardly redress the actual sufferings of the injured victim (who is deprived of the normal amenities of life and suffers the unease of being a burden on others), the Courts can make a genuine attempt to help restore the self-dignity of such claimant, by awarding '**just compensation**'.

However, the assessment of damages in personal injury cases raises great difficulties. It is not easy to convert the physical and mental loss into monetary terms. There has to be a measure of calculated guesswork and conjecture. An assessment, as best as can, in the circumstances, should be made.



It is relevant to make reference to dictum of the Hon'ble Supreme Court in *K.Ramya and others vs. National Insurance Co. Ltd. and another, 2022 INSC 1044*, wherein, it was held that the compensation must be fair, reasonable and equitable. It was further held that the determination of quantum is a fact-dependent exercise, which must be liberal and not parsimonious. The Hon'ble Apex Court emphasized that compensation is a more comprehensive form of pecuniary relief, which involves a broad-based approach.

Adverting to the case in hand, it is essential to note that the pleaded case of the claimant is that she along with two other injured persons, were the occupants of the ill-fated car. As a result of the accident in question, she had sustained severe and grave injuries.

PW-6 Anand Jain, father of the minor claimant, deposed about the detail of the injuries, sustained by the claimant, in consonance with the pleaded case. This witness deposed about his daughter Ashkara Jain to be 9 years old and was student of 4th standard, studying at Heritage School. He also deposed about the claimant to have sustained severe injuries in the mishap on the unfortunate day, as she sustained **diffused axonal injury**, the most devastating type of traumatic brain injury. Her CT scan revealed left frontal contusion with diffuse cerebral edema with MLS to right side with multiple small hemorrhagic contusion. She was brought in an unconscious state. He further deposed that on account of high speed of offending car, when the car, on which his daughter was occupant, spun several times before it came to a stop. Therefore, brain of the claimant, who was sitting on rear seat was gravely hurt and damaged. She was shifted to Artemis Health



Centre, Gurgaon, where she remained admitted for 25 days. She was operated upon for "*left FTP Craniectomy with evacuation of frontage contusion with loose duraplasty with bone flap in abdomen*". Her *tracheostomy was also done. The evacuation of frontal contusion was done, duraplasty was done with pericranian fascia.* Since, she did not recover, with a hope of her early recovery, she was shifted to Inderprastha Apollo Hospital, Delhi for specialized treatment, where she remained admitted in Intensive Care Unit w.e.f. 29.06.2011 to 09.09.2011. Her MRI of brain revealed multiple hemorrhagic contusions. Her **Percutaneous Endoscopic Gastrostomy (PEG)** was performed. Also, she was given treatment for injuries on her **eye and left elbow and right thumb**.

This witness further deposed that after the extensive severe medical treatment and operative procedures, the claimant was finally discharged and advised **wheel chair mobilization** with medication and further follow up. Also, he deposed that despite best possible medical treatment, she was in a **persistent vegetative state** and was unable to perform any activity such as to see, open mouth, cry, talk, smile, move etc., as her brain is not functional. Even, her intake of food is only through PEG tube. Further, this unfortunate father has deposed about various body parts of his daughter, to be not in sync, as a result whereof, the routine movements of the body, as such, were not there.

He also deposed about sum of Rs.40 lakh, having already been spent on her treatment and that further also, she requires continuous monitoring. She has **ventriculoperitoneal shunt** implanted in her brain. Furthermore, this witness deposed about the eventualities of the consequential difficulties,



bound to be there, after such kind of treatment having extended to his daughter.

Besides the aforesaid witness, various doctors, who had extended treatment to the claimant were also examined.

PW-8 Dr.Shiva Nand Gupta deposed about having examined the claimant on 05.06.2011 at 9.05 p.m., i.e. immediately after the accident, when she was brought in emergency department with unconscious state and respiratory arrest. He found laceration over left frontal region of scalp, laceration over chin, laceration over postero-lateral aspect of left forearm and multiple abrasions all over body, including anterior lower chest wall and upper abdomen. The MLC prepared by him is **Ex.P-206**.

PW-9 Dr. Arun Saroha, Neurosurgeon from Artemis Hospital, Gurgaon, who had also treated the injured, has deposed about the claimant to have suffered severe head injuries and was under coma. She was treated and operated by him and was discharged on 29.06.2011 in unconscious state. He proved her discharge summary, which is **Ex.P-43**.

PW-3 Dr. H.S. Sohal, Consultant Neuro Surgeon from Apollo Hospital, New Delhi, had also deposed about admission of claimant in their hospital on 29.06.2011, while being shifted from Artemis Health Institute, Gurugram. He also deposed about the detail of team of specialist doctors, who had extended treatment to the claimant. He proved the discharge summary, which is **Ex.P-33**. Also, the said witnesses stated about the claimant to have undergone **two brain surgeries and one surgery for hand injury**. She was given **50 sittings of hyperbaric oxygen therapy** to improve her brain recovery from severe head injury and further also detailed



the nature of injuries on her person, which were dangerous with severe head injury and the injured was unconscious and in complete vegetative state, totally dependent for daily activities. She was discharged on 09.09.2011, while she marginally improved, but still was unable to communicate, indicate her needs and was on vegetative stage.

This witness further deposed that she was advised wheel chair mobilization and good nursing care with regular follow up, besides other medications, feeding, limb and speech physiotherapy. Also, he deposed that chances of the claimant, recovering to the pre-injury normal state, are remote. This witness further deposed that to prevent possible complication and deterioration, she was required to remain on air mattresses, DVT pump, daily limb physiotherapy and speech therapy with qualified nursing care, along with the regular medicines and other disposables things required for a patient in vegetative state and also deposed that patient is totally disabled and not likely to recovery in near future.

PW-8 Dr. Sanjay Narula, Surgeon, G.H. Gurgaon, who was member of disability board, deposed about having examined Ashkara Jain, who was 9 years old and the disability thereupon was assessed as 100%, on account of **‘total incontinence of bladder and bowel, right hemiparesis and inability to speak at all’**, as per disability certificate Ex.PW-7/A.

Besides the aforesaid witnesses, **PW-1** Ritesh Kumar, **PW-4** Devanand Sharma, **PW-5** Abhay Kumar Verma and **PW-7** Sunny Sharma, of the various health institutes, were examined, who proved the bills of the expenditure incurred, during the course of treatment extended to the claimant.

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At this juncture, it be also noted that during the pendency of the FAOs, an application was filed for additional evidence, to bring on record, medical bills, on account of treatment taken by the injured, in the post-Award period, as detailed therein. The said application was allowed and the case was remitted to learned Tribunal to record evidence, qua the bills or any other bills produced by the claimant, and/or to record any other evidence, regarding other expenses incurred by the claimant, after the date of Award and to submit its report along with its finding thereon, to this Court, so as to enable this Court to decide the appeal, in its appropriate prospective.

Thereupon, before the Tribunal, as many as 7 witnesses were examined by the claimants, the detail whereof is **PW-1** Anand Jain, father of the claimant, **PW-2** Ritesh Kumar, Record Keeper, Artemis Hospital, **PW-3** P.R.Nayak, Store Incharge Pharmacy Incharge, Fortis Hospital, **PW-4** Rajesh Singh, Senior Executive, Raksha TPA Pvt. Ltd. **PW-5** Anil Kumar, Speech Therapist, **PW-6** Navanjevan Panthi, Physiotherapist with Medanta Hospital and **PW-7** Harpreet Singh, Owner of Pasricha Pharmacy. However, no evidence, as such, was led before Tribunal, by the insurance company.

After hearing, counsel for the parties, learned Tribunal had furnished the report dated 20.03.2018, while giving the details of various bills, which ought to be reimbursed and denying other bills to be taken into consideration.

From the evidence, as detailed above, one thing is certain that the claimant, who was 9 years old, at the relevant time, had suffered grave injuries, which made her crippled and bed ridden, pushing her to vegetative



state. Consequently, on examination by the medical board, who assessed the disability, the claimant, on account of **total incontinence of bladder and bowel Rt. Hemiparesis and inability to speak at all**, was held to be having 100% permanent disability, not likely to be improved. Thus, chances of her reversion to the pre-accident stage of health are remote. She had become dependent upon others for lifetime. This condition had completely devastated her body functionality.

It is quite obvious that her childhood dreams came dashing down and her chances, with regard to future hopes and growth in life, were completely snuffed out, by the serious accident. The claimant's impaired condition definitely has serious impact upon her chances of settlement in life. Rather, it has been completely negated. The permanent disability suffered by her, not only impaired her cognitive abilities and her physical facilities, but there are other quantifiable implications for the victim and she turned out to be completely invalid.

Such being the position, it ought to be considered that no amount, on the count loss of earnings, during hospitalization was awarded by learned Tribunal. However, she was granted compensation for the loss of future earnings, on account of permanent disability, while taking her earnings as Rs.15,000/- per annum and applying the multiplier of '18', which was thus worked as $\text{Rs.15,000} \times 18 = \text{Rs.2,70,000/-}$, vis-a-vis, the loss of earnings.

In this regard, beneficial reference is made to ***Baby Sakshi Greola vs. Manzoor Ahmad Simon and another, 2025 (1) RCR (Civil) 238***, wherein, the Hon'ble Supreme Court, while considering the case of 7 year old, having suffered grievous injuries, had made reference to the decision



rendered by the Hon'ble Apex Court in ***Kajal vs. Jagdish Chand and others, 2020 INSC 135*** and observed as herein given:-

“17. This Court, in the case of Kajal (supra), had an opportunity to consider a case with identical facts. In the said case, a girl (Kajal) aged 12 sustained brain injuries on account of an accident. The accident had very serious consequences on her. Kajal was examined for an assessment of her disability. It was assessed that, because of the head injury, Kajal is left with very low IQ and severe weakness in all her four limbs, she suffers from severe hysteria and severe urinary incontinence. Her disability had been assessed as 100%.

18. This Court, in the said case, referred to a number of cases where the principles for grant of compensation have been enunciated. Cases from foreign jurisdiction as well as cases of this Court were relied upon to extract the principles to be applied while assessing compensation.”.....

Therein, also reference was made to foreign case law and also referred to ***Concord of India Insurance Co. Ltd. vs. Nirmala Devi, 1979 (4) SCC 365***, wherein, it was held as herein given:-

“the determination of the quantum must be liberal, not niggardly since the law values life and limb in a free country in generous scales.”

Furthermore, reference was also made to ***Raj Kumar's case (supra)***, wherein, the Hon'ble Supreme Court had laid down heads, under which the compensation is to be awarded for personal injury cases, which also, as such, has been relied upon by the Tribunal.

In ***Baby Sakhi Greola's case (supra)***, the Hon'ble Supreme Court made reference to ***K.Suresh vs. New India Assurance Co. Ltd., 2012 (12)***



SCC 274, wherein, it was observed as herein given:-

“2. ... There cannot be actual compensation for anguish of the heart or for mental tribulations. The quintessentiality lies in the pragmatic computation of the loss sustained which has to be in the realm of realistic approximation. Therefore, Section 168 of the Motor Vehicles Act, 1988 (for brevity “the Act”) stipulates that there should be grant of “just compensation”. Thus, it becomes a challenge for a court of law to determine “just compensation” which is neither a bonanza nor a windfall, and simultaneously, should not be a pittance.”

And then observed as under:-

“19. This Court, in the said case, thereafter, formulated various heads such as loss of earnings, expenses related to treatment, attendant charges, pain and suffering and loss of amenities, loss of marriage prospects, future medical treatment. Ultimately, this Court enhanced the compensation awarded by the High Court from Rs. 25,78,501/- to Rs.62,27,000/-.”

Also, the Court took into consideration the earlier decisions rendered in *Master Ayush vs. Branch Manager, Reliance General Insurance Company Limited and another, 2022 INSC 363* and *K.S.Muralidhar vs. R. Subbulakshmi and another, 2024 INSC 886* and stated about the manner, in which the compensation was enhanced by the Hon’ble Apex Court.

Furthermore, the Hon’ble Supreme Court in *Baby Sakshi Greola’s case (supra)* has made reference to the case of *Kajal (supra)*, wherein, it was held that taking notional income is not a correct approach, instead, minimum wages payable to a skilled workman, in the concerned State, has to be taken into consideration because that would be the minimum amount, which she



would have earned on becoming a major. Thereupon, in ***Kajal's case (supra)***, the minimum wages payable to skilled workman, as prevalent at the relevant time of accident, were considered.

This approach was also adopted in ***Baby Sakshi Greola's case (supra)*** as well as in ***Master Ayush's case (supra)***.

Also, beneficial reference is made to ***Hitesh Nagjibhai Patel s. Bababhai Nagjibhai Rabari and another, 2025 INSC 1070***, wherein, while considering the case of 8 years old injured, the Hon'ble Supreme Court has observed as herein given:-

*“9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in ***Kajal v. Jagdish Chand and Ors. (2020) 4 SCC 413 and Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr., 2024 SCC Online SC 3692.***”*

While relying upon the case law, as mentioned above, the

Hon'ble Supreme Court, taking into consideration the year of accident and

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prevalent minimum wages, for skilled worker, in the State of Gujarat, had determined the income of the injured as Rs.6835.5 per month, which was rounded off as Rs.6836/- per month and further gave direction to make assessment, on the basis thereof. Even, it was held that addition of future prospects was required to be made to the extent of 40% and the laid down the parameters for re-calculation of the compensation.

As far as, the present case is concerned, the victim was 9 years old, at the relevant time, when the accident had taken place on 05.06.2011. The disability suffered is 100% and that too permanent, which is not likely to improve. To make the assessment of her earnings, minimum wages, prevalent at the relevant time, ought to be taken, which were Rs.5033/- per month, annual whereof is Rs.60,396/-. Multiplier of '18' is to be applied and the loss of earnings is worked upon as $\text{Rs.}60,396 \times 18 = \text{Rs.}10,87,128/-$. Addition of 40%, to the aforesaid amount, ought to be made, on the count of '**future prospects**' and thus, total loss of earnings, on account of disability, comes to be $\text{Rs.}10,87,128 + 4,34,851 = \text{Rs.}15,21,979/-$, which is now rounded off as **Rs.15,22,000/-**.

Considering of state of existence of the claimant, on account of injuries suffered, due to no fault of her, the Court is required to consider and keep in mind, while assessing the compensation, in cases like present one, that the claim can be awarded only once. The claimant should not be asked to come back to the Court for enhancement of the Award, at a later stage, praying that something extra has been spent. While making the assessment of the compensation in case of 100% disability, the Courts should not only take into consideration the physical disability, but also the mental turmoil



and various other factors. This Court is unable to understand, as to why the Tribunal made departure from the normal rule and assessed the need for future medical expenditure and also on the count of 'pain and suffering', limited to the period of two years only.

The child in the present case will remain bed-ridden for life. She was 9 years old, at the relevant time and even, had a long childhood before her. This girl would miss out having a normal happy-go life. She will miss out playing with her friends. She cannot communicate; she cannot enjoy the pleasures of life; she cannot even be amused by watching cartoons or films; she will miss out the fun of childhood, the excitement of youth; the pleasures of a marital life and also having her further extensions through progeny. In fact, her is a vegetative existence and this ought to have been taken into consideration and precisely, on this account, limiting the period of two years for '**future medical needs**' and also on account of '**pain and suffering**', is not appropriate. It has to be borne in mind that while assessing compensation in such like cases, as the present one, the claim should be awarded only once, while having broad-based approach and the claimant ought not be asked to come back to the Court for enhancement, unless and until, occasion as such, arise, on which account, the claimant through her guardian, makes resort to the legal remedy.

An amount of Rs.40,00,00/- was awarded by the Tribunal, on the count of **expenses, relating to treatment, hospitalization, medicines, transportation, nourishing food and misc. expenses**. The medical bills proved are to the extent of **Rs.33,10,040/-**. However, there is need to bifurcate the same and the amount, as such, is not appropriate to be rounded

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off as Rs.40,00,000/-, on all the aforesaid counts. The medical expenditure already incurred is to the extent of Rs.33,10,040/-, which ought to be awarded. Certain amounts are hidden expenditure relating to the medical treatment extended and thus, the aforesaid amount is now rounded off as **Rs.34,00,000/-**.

Throughout her life, recurring medical treatment is inevitable for the claimant and bearing the same in mind and while taking into consideration the state of health of the claimant, making some modest estimate, proximate to the reality, the future medical need, as such, is worked upon as Rs.20,000/- per month, annual whereof is Rs.2,40,000/-. However, considering the age of the claimant, at the relevant time and taking the life expectancy in modest estimate as 60 years, thus arrangement has to be made for a period of 51 years. Thus, applying the multiplier of '51' to the annual assessment of the future expenses, as observed aforesaid, the compensation is worked upon as $\text{Rs.2,40,000} \times 51 = \text{Rs.1,22,40,000/-}$.

While making the assessment of the compensation, the count of nursing caretaker has been given amiss. It has to be kept in mind that the disability suffered by the claimant is 100% and thus, she is unable to perform everyday activities and requires constant support, even for the confined life, she is forced to live. On account of having been bed-ridden, the claimant is bound to be looked after by a bye-stander/attendant for all her movements and obviously, attendant ought to be a skilled person, who is well versed with handling a patient, not only physically but also handling and attuning her to make efforts to reverse the condition in the best possible manner.



On account of being completely bed-ridden with right hemiparesis and there being incontinence of bladder and bowel and loss of speech, the claimant is bound to be taken care of by the attendant for all her movements. Consequently, bearing in mind the need for assisted living, it is necessary to add value of services of an attendant for the claimant, while working upon the compensation. Though, it is contended that no satisfactory evidence, relating to the same, as such, has come on record, but however, this submission do not find merit, while taking into consideration, the condition of the claimant. In this respect, it will be relevant to refer to paragraph No.22 of *Kajal's case (supra)*, which reads as herein given:-

“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. vs. 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.”

The multiplier method was re-affirmed, time and again, by the Courts. Even in Baby ***Sakshi Greola’s case (supra)***, while considering the ***Kajal’s case (supra)*** and ***Master Ayush’s case (supra)***, the ‘work on’ of the ‘attendant charges’ was made, while taking into consideration the wages paid to a skilled worker and also by application of the suitable multiplier.

However, the present case stands deviated from the normal process to be followed with regard to the attendant charges, as in the case in hand, the claimant is completely invalid and requires specialized nursing care and qualified attendant is a must to take care of, round the clock.

In the light of the same, while considering the amount incurred for employment of attendant as Rs.20,000/- per month, annual whereof is worked upon as Rs.2,40,000/- and considering the life expectancy of the claimant to be 60 years, as observed in the earlier portion of the judgment, this amount is worked upon, while multiplying with the number of years i.e. ‘51’ and the amount of compensation on the count of ‘attendant charges’ is worked upon as **Rs.1,22,40,000/-**.

On account of injuries suffered by the claimant, she is bound to be put on ‘**special diet**’ for healing process. The said child, after the accident, was bound to grow physically, while on bed. Therefore, extra care ought to be taken to avoid gaining weight by her, which is otherwise bound to have further complications, on account of injuries sustained by her and this process has to be carried out further, throughout her lifetime.

Considering the same, on account of ‘special diet’, an amount of



Rs.5,00,000/- is awarded.

Further, while making 'to and fro' trips to the hospital, during the period of treatment, considering the initial hospitalization and the follow-up trips, as well as the frantic efforts made by the father to obtain opinions from various experts on the medical side as well as taking the child for further treatment and therapies, much amount must have been spent and is bound to be spent further. Considering the same, it is appropriate to grant **Rs.5,00,000/-**, on the count of 'transportation charges'.

Looking at the condition of the claimant, she is bound to have severe apathy and therefore, maintaining/forming marital family bonds, more particularly, considering her condition, the chances are practically nil. The claimant, therefore, has not only lost her childhood, but also her adult life. Marriage/companionship is an integral part of the natural life of a human being. The claimant, due to her bed-ridden condition is deprived from enjoying marital bliss and see her extensions through progeny. Even, she would be deprived of several pleasures of life, as she will be unable to move freely and follow her dreams. Considering the same, on the count of 'loss of amenities and loss of marriage prospects', another amount of **Rs.10,00,000/-** is awarded.

Unfortunate child of 9 years, at the relevant time, as observed in the earlier portion of the judgment, has not only been deprived of fun of the childhood and excitement of youth and also of little joys, on day-to-day basis, as she is in vegetative state and unable to express her anguish, but also, must be passing through very traumatic state of mind, day in and day out, as her life has entirely jeopardized, on account of physical as well as



mental wreck befallen upon her. However, learned Tribunal had limited the compensation, on the count of '**pain and suffering**' to the period of '**two years**', which is palpably erroneous. As observed aforesaid, taking into consideration, the life expectancy of the claimant, to be 60 years and considering her age, at the time of accident, it ought to be taken into consideration that there were 51 years ahead. Taking the same into consideration and the physical as well as mental turmoil faced by her everyday, on the count of '**pain and suffering**', it is appropriate to award compensation to the extent of **Rs.30,00,000/-**.

During the pendency of the FAOs, an application for additional evidence was allowed and various witnesses were examined by the claimant, and report was received from the Tribunal. Considering the various bills and the medical record proved before the Tribunal and also the report submitted by learned Tribunal, the requisite bills, as mentioned therein, which are required to be taken into consideration, which states about the hospitalization charges and other bills, relating to the treatment undergone by the claimant. No doubt, few of the bills, as such, have been excluded from consideration and counsel for the claimant, insisted for taking the same into consideration, but however, suffice to consider, the bills as relied upon by Tribunal, the total whereof is Rs.14,37,943/-, which is now rounded off as **Rs.17,38,000/-** and the same are taken into consideration, whereas, the amount of bills denied, are already covered, under the various counts, as worked upon aforesaid.

Thus, on the various counts, as detailed aforesaid, the compensation to be awarded to appellant-claimant-Ashkara Jain, is re-



determined as herein given:-

Head	Amount of compensation
Loss of earnings	Rs.15,22,000/-
Medical Bills proved earlier	Rs.34,00,000/-
Medical bills proved in additional evidence	Rs.17,38,000/-
Future medical need	Rs.1,22,40,000/-
Attendant charges	Rs.1,22,40,000/-
Special diet	Rs.5,00,000/-
Transportation charges	Rs.5,00,000/-
Loss of amenities and loss of marriage prospects	Rs.10,00,000/-
Pain and suffering	Rs.30,00,000/-
Total	Rs.3,61,40,000/-

As such, after making deduction of the amount already awarded by learned Tribunal, the claimant is now entitled to enhanced compensation of **Rs.3,61,40,000-78,10,000=Rs.2,83,30,000/-**.

On the enhanced amount of the compensation, as now worked, the appellant-claimant Ashkara Jain shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the appeal, till realization of the enhanced amount of compensation.

As evident from the material brought on record, extensive amount has been spent by father of the claimant, on her treatment. Considering the same and also to facilitate the father of the claimant to have sufficient money in circulation, to extend further medical aid to the claimant, out of the enhanced amount, as now worked upon, an amount of **Rs.1,00,00,000/-** be released to father of the appellant-claimant, in due course.

However, considering the injuries sustained by the claimant, it shall



be appropriate, if the residual enhanced amount of **Rs.1,83,30,000/-** along with proportionate interest, is invested in a Nationalized Bank, in shape of Fixed Deposit Receipt (FDR), earning maximum rate of interest and the same shall be renewable from time to time. However, the natural guardian shall be at liberty to seek the release of this amount, as and when, such ‘**pressing need arises**’, solely relating to the treatment of the claimant and the Tribunal shall be at liberty to pass any appropriate order, vis-a-vis, release of the amount and the extent thereof, in the fitness of the circumstances and the need spelt out, while watching the interest of the claimant.

In view of the above observations, the appeal i.e. **FAO-2170-2013** filed by the insurance company stands dismissed, whereas the appeal filed by the appellant-claimant i.e. **FAO-2970-2013** stands allowed.

The pending civil misc. applications, if any, shall stand disposed of.

April 09, 2026
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No