2026:AHC:175702

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 2154 of 2022

Muzahid

.....Appellant(s)

Versus

Shahnwaz And 4 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Anju Shukla, Nigamendra Shukla
Counsel for Respondent(s)	:	Shashi Kant Srivastava, Shrey Singh

In Chamber

HON'BLE SUDHANSHU CHAUHAN, J.

1. Heard learned counsel for the appellant, Sri Shashi Kant Srivastava, learned counsel for the respondent no.3 and Sri Shrey Singh, learned counsel for the respondent no.5.

2. The present appeal has been filed for enhancement of the amount awarded by the Motor Accident Claims Tribunal, Ghaziabad, in Motor Accident Claim Petition No. 217/2012 (Muzahid v. Shahnawaz and others) vide judgment and order dated 26.09.2022.

3. The facts involved in the controversy, in brief, are that the appellant, while he was traveling as a conductor/cleaner in a vehicle bearing registration no. UP 13 P 9762, on 02.11.2007 at around 03:00 a.m., met with an accident, when another vehicle bearing registration no. UP13J 9576 had hit the vehicle on which the appellant was employed on GT Road, Police Station Mansoorpur, District Muzzafarnagar. The appellant in the accident had sustained severe injuries, including those of the spine, and was admitted at District Hospital, Muzzafarnagar and had subsequently undergone a surgery of the spine and has been bedridden ever since.

4. The learned tribunal had held that the accident had taken place on account of the rash and negligent driving of drivers of both the vehicles and it was a case of contributory negligence. Further, the vehicle bearing registration no. UP13 J 9576 was insured with New India Insurance Company-respondent no. 5. However, the vehicle bearing registration no.

UP13 P 9672 was not insured with United India Insurance Company Limited - respondent no. 3, as alleged by the owner of the vehicle, respondent no. 1, and the cover note of insurance was found to be forged and fabricated. Hence, the learned tribunal had held the respondent no. 5, insurance, and respondent no. 1, the owner of the vehicle bearing registration No. UP 13 P 9672, to be equally liable to pay the compensation awarded.

5. As far as the appellant is concerned, he had sustained severe injuries of the spine in the accident and was admitted to District Hospital, Muzaffarnagar, on the date of the accident. He was thereafter shifted to City Hospital, Meerut, and from there to AIIMS, Delhi. The appellant was shifted to Safdarganj Hospital, Delhi, on 04.11.2007 and remained admitted there till 06.12.2007. Thereafter, the appellant remained admitted at Madhu Hospital, Hapur, from 13.01.2008 to 24.01.2008. Subsequent thereto, the appellant was admitted at Medical College, Meerut, from 29.04.2008 to 21.05.2008, and again from 01.09.2008 to 13.09.2008. Again, the appellant was admitted at Subharti Hospital, Meerut from 29.12.2009 to 09.01.2010 at Madhu Hospital, Hapur from 25.02.2010 to 06.03.2010 and lastly at Narayana Superspeciality Hospital, Meerut from 24.03.2010 to 05.04.2010. Thus, the appellant remained admitted for a duration of 116 days in various hospitals.

6. The appellant was diagnosed with quadriplegia and also dislocation of C4-C5 vertebrae (cervical spine), for which the appellant also underwent surgery where internal fixation of steel plate and screws was carried out on his spine. It is also not disputed that after the accident, the appellant has been completely bedridden and is immobile and unable to use all four limbs. Besides the applicant has to live with a catheter and defecates on bed with the assistance from others. The disability certificate dated 07.08.2008 issued by Chief Medical Officer, Ghaziabad, has assessed the percentage of disability of the appellant at 70%. Besides, the appellant has also filed a medical certificate regarding disability issued by Dr. R.N. Gupta, Former Additional Director, Medical Board, Allahabad wherein the disability of the appellant has been assessed at 100% in accordance with guidelines laid down vide notification dated 06.08.1986, issued by the Ministry of Welfare, Government of India. Dr. R. N. Gupta was also

produced before the learned tribunal, wherein he had deposed that the appellant is unable to perform daily activities like sitting, walking, and defecating and also suffers from urinary and fecal incontinence.

7. The learned tribunal, while awarding compensation to the appellant, has determined his age at the time of accident as 22 years and monthly income as Rs. 5,000. Subsequently, the learned tribunal has determined the loss of future income of the appellant at the rate of 40%, and determined the monthly income as Rs 7,000/- and yearly income as Rs 84,000/. However, the learned tribunal, while assessing the disability of the appellant at 70% on the basis of the certificate issued by Chief Medical Officer, Ghaziabad, has determined his yearly income as Rs. 58,800/. Thereafter, the learned tribunal, while applying the multiplier of 18, has determined the future loss of income of the appellant as Rs10,58,400/(58,800x18).

8. As the appellant remained admitted for a duration of 116 days, the learned tribunal has awarded an amount of Rs 69,600 (116 × 600) and additional amount of Rs1,00,000/- under the said head total amounting to Rs.1,69,600/- towards attendant charges. Besides the learned tribunal awarded an amount of Rs. 1,00,000/- towards future medical expenses, an amount of Rs. 1,00,000/- towards mental and physical pain, an amount of Rs. 50,000/- towards diet and an amount of Rs. 50,000/- towards ambulance charges.

9. Thus, the learned tribunal awarded an amount of Rs. 15,28,000/- to the appellant, along with 7% simple interest payable from the date of filing of the petition till the date of actual payment, further, the liability to pay the aforesaid amount was fixed upon respondent no. 1, the owner of vehicle no. UP 13 P 9762, and respondent no. 5, the insurer of vehicle no. UP 13 J 9576, each being liable for 50% of the amount. It is made clear that the learned tribunal had not awarded any amount towards medical expenses incurred by the appellant till the time of filing of the petition, in view of the fact that no medical bills had been produced by the appellant in support of the claim.

10. Under the circumstances, it is contended on behalf of the appellant that the learned tribunal was not at all justified in determining the

permanent disability of the appellant as 70% as certified by the Chief Medical Officer. The fact of the matter was that the appellant was permanently disabled to the extent of 100%, in view of the fact that the appellant was bedridden and was unable to follow his daily routine in the absence of assistance from others. The learned tribunal, though, arrived at a finding that the appellant, every day, needed assistance to follow his daily routine, and as such, an amount of Rs.1,69,600/- towards past and future attendant charges was very meager to enable the appellant to meet the expenditure incurred towards attendant charges. It was duly proved that the appellant was repeatedly admitted in various hospitals for a duration of 116 days to undergo treatment for the injury sustained, the prescriptions as well as the medical reports in support thereof were duly produced, yet the learned tribunal failed to award any amount towards medical expenses incurred solely on the ground that no medical bills had been produced. Further, it is contended that, even otherwise, the amounts awarded towards pain and suffering, diet, compensation for loss of amenities and pleasures for future life, as well as the future prospects of the income of the appellant, were very meager and had not been determined, keeping in view the nature of injuries sustained by the appellant on account of the accident and the life that was to be led by the appellant in future.

11. Per contra, it has been contended on behalf of learned counsel for respondent no. 5-insurance company that disability has been rightly determined by the learned tribunal on the basis of the disability certificate issued by the Chief Medical Officer. Further, there is no such concept of functional disability, and the courts have only recognized the physical disability determined on the basis of the disability certificate. The attendant charges have rightly been determined by the learned tribunal, more so when there was nothing on record to demonstrate that the appellant was availing the services of any attendant while at home. As the appellant had failed to produce any documentary evidence of bills in respect of medical expenses nor any quantification of the amount spent towards medical expense was filed, hence, the learned tribunal had rightly refused to award any amount under the head of medical expenses incurred till the time of filing of the petition. Besides, an amount of Rs. 69,600/- has already been awarded when the appellant was hospitalized for a

duration of 116 days @ Rs 600/- per day. Further, it is contended that the amounts awarded towards pain and suffering, diet, compensation for loss of amenities and pleasure for future life, and other heads were commensurate with the nature of injuries sustained as well as the income of the appellant, and no interference was warranted in the same.

12. Before adverting to the merits of the controversy, this Court is conscious of the fact that a just compensation is to be awarded while making an award in proceedings arising under Section 166 of the Motor Vehicles Act, 1988. The Apex Court, in the case of ***Helen C. Rebello v. Maharashtra SRTC and another (1999) Vol. 1 SCC 90***, held the following on the contours of just compensation:-

"The word "just", as its nomenclature, denotes equitability, fairness and reasonableness having a large peripheral field. The largeness is, of course, not arbitrary; it is restricted by the conscience which is fair, reasonable and equitable, if it exceeds; it is termed as unfair, unreasonable, unequitable, not just."

A person, therefore, is not only to be compensated for the injury suffered due to the accident, but also for the loss suffered on account of the injury and his inability to live the life he led prior to the life-altering event.

13. Further the Apex Court in the case of ***Jagdish v. Mohan and others, (2018) 4 SCC 571*** had made the following observation on the intrinsic value of human life and dignity that is attempted to be recognized 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"

14. This Court has perused the records of the case, and certain undisputed facts that emerge are that the appellant was employed as a conductor/cleaner of vehicle no. UP 13P 9762, was aged about 22 years, and was earning Rs. 5,000/- per month on the date of the accident i.e 02.11.2007. The appellant, as a consequence of the accident, had sustained severe injuries in the spine and was operated and internal

fixation of steel plate and screws was done on his spine. Besides, the appellant also suffered from dislocation of his C4-C5 vertebrae i.e cervical spine. The appellant remained admitted in various hospitals from time to time after the accident, a total duration of 116 days prior to filing of the claim petition. The appellant suffers from quadriplegia, is completely bedridden, and uses a catheter to pass urine and has to defecate on the bed, besides, he also suffers from incontinence in passing urine and faeces. Thus, the appellant is unable to follow his daily routine without assistance from others.

15. In respect of the loss of future earnings awarded to the appellant, the learned tribunal, by means of the impugned judgment and order, had determined the monthly income of the appellant as Rs. 5,000/-, the future loss of income at 40 %, the percentage of disability as 70% on the basis of the certificate of Chief Medical Officer, and used the multiplier of 18, thereby determining the amount under the said head as Rs. 10,58,400/-.

16. In this regard, the contention of the learned counsel for the appellant is that, as the appellant was completely bedridden and was unable to perform his daily routine without assistance, there was 100% loss of earning capacity, whereas it is contended on behalf of the respondent No. 5 that the loss of income has rightly been determined on the basis of the disability certificate as 70%.

17. In the case of ***Raj Kumar vs. Ajay Kumar and another, (2011) 1 SCC 343,*** the Apex Court, while determining this question, was of the view that what is required to be assessed by the tribunal is the effect of permanent disability on the earning capacity of the injured person. After assessing the loss of earning capacity in terms of a percentage of income, it has to be quantified in terms of money. Further, the Apex Court had went on to hold as under:-

"8. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings, would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability. Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning

capacity, and consequently, if the evidence produced show 45% as the permanent disability, will hold that there is 45% loss of future earning capacity. In most of the cases, equating the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will result in award of either too low or too high a compensation. What requires to be assessed by the Tribunal is the effect of the permanently disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation (see for example, the decisions of this court in ***Arvind Kumar Mishra v. New India Assurance Co.Ltd. - 2010(10) SCALE 298*** *and* ***Yadava Kumar v. D.M., National Insurance Co. Ltd. - 2010 (8) SCALE 567)****.*

9. Therefore, the Tribunal has to first decide whether there is any permanent disability and if so the extent of such permanent disability. This means that the tribunal should consider and decide with reference to the evidence: (i) whether the disablement is permanent or temporary; (ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement, (iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is the permanent disability suffered by the person. If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, it has to determine whether such permanent disability has affected or will affect his earning capacity.

10. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on inspite of the permanent disability and what he could not do as a result of the permanent ability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood. For example, if the left hand of a claimant is amputated, the permanent physical or functional disablement may be assessed around 60%. If the claimant was a driver or a carpenter, the actual loss of earning capacity may virtually be hundred percent, if he is neither able to drive or do carpentry. On the other hand, if the claimant was a clerk in government service, the loss of his left hand may not result in loss of employment and he may still be continued as a clerk as he could perform his clerical functions; and in that event the loss of earning capacity will not be 100% as in the case of a driver or carpenter, nor 60% which is the actual physical disability,

but far less. In fact, there may not be any need to award any compensation under the head of `loss of future earnings', if the claimant continues in government service, though he may be awarded compensation under the head of loss of amenities as a consequence of losing his hand. Sometimes the injured claimant may be continued in service, but may not found suitable for discharging the duties attached to the post or job which he was earlier holding, on account of his disability, and may therefore be shifted to some other suitable but lesser post with lesser emoluments, in which case there should be a limited award under the head of loss of future earning capacity, taking note of the reduced earning capacity. It may be noted that when compensation is awarded by treating the loss of future earning capacity as 100% (or even anything more than 50%), the need to award compensation separately under the head of loss of amenities or loss of expectation of life may disappear and as a result, only a token or nominal amount may have to be awarded under the head of loss of amenities or loss of expectation of life, as otherwise there may be a duplication in the award of compensation. Be that as it may.

11. The Tribunal should not be a silent spectator when medical evidence is tendered in regard to the injuries and their effect, in particular the extent of permanent disability. Sections 168 and 169 of the Act make it evident that the Tribunal does not function as a neutral umpire as in a civil suit, but as an active explorer and seeker of truth who is required to `hold an enquiry into the claim' for determining the `just compensation'. The Tribunal should therefore take an active role to ascertain the true and correct position so that it can assess the `just compensation'. While dealing with personal injury cases, the Tribunal should preferably equip itself with a Medical Dictionary and a Handbook for evaluation of permanent physical impairment (for example the Manual for Evaluation of Permanent Physical Impairment for Orthopedic Surgeons, prepared by American Academy of Orthopedic Surgeons or its Indian equivalent or other authorized texts) for understanding the medical evidence and assessing the physical and functional disability. The Tribunal may also keep in view the first schedule to the Workmen's Compensation Act, 1923 which gives some indication about the extent of permanent disability in different types of injuries, in the case of workmen. If a Doctor giving evidence uses technical medical terms, the Tribunal should instruct him to state in addition, in simple non-medical terms, the nature and the effect of the injury. If a doctor gives evidence about the percentage of permanent disability, the Tribunal has to seek clarification as to whether such percentage of disability is the functional disability with reference to the whole body or whether it is only with reference to a limb. If the percentage of permanent disability is stated with reference to a limb, the Tribunal will have to seek the doctor's opinion as to whether it is possible to deduce the corresponding functional permanent disability with reference to the whole body and if so the percentage.

12. The Tribunal should also act with caution, if it proposed to accept the expert evidence of doctors who did not treat the injured but who give `ready to use' disability certificates, without proper medical assessment. There are several instances of unscrupulous doctors who without treating the injured, readily give liberal disability certificates to help the claimants. But where the disability certificates are given by duly constituted Medical Boards, they may be accepted subject to evidence regarding the genuineness of such certificates. The Tribunal may invariably make it a point to require the evidence of the Doctor who treated the injured or who assessed the permanent disability. Mere production of a disability certificate or Discharge Certificate will not be proof of the extent of disability stated therein unless the Doctor who treated the claimant or who medically examined and assessed the extent of disability of claimant, is tendered for cross- examination with reference to the

certificate. If the Tribunal is not satisfied with the medical evidence produced by the claimant, it can constitute a Medical Board (from a panel maintained by it in consultation with reputed local Hospitals/Medical Colleges) and refer the claimant to such Medical Board for assessment of the disability.

13. 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."

18. In the case of ***Parminder Singh vs New India Assurance Company Limited and others, (2019) 7, SCC 217***, where the appellant, a driver, sustained grievous injuries, was aged about 22 years and was earning Rs. 10,000/- per month and had a disability assessed at 75%, the Apex Court, while considering the law laid down in the case of ***Govind Yadav vs New India Insurance Company Limited (2011) 10 SCC 683***, ***K Suresh vs New India Assurance Company Limited (2012) 12 SCC 274***, and ***Raj Kumar vs Ajay Kumar and others (Supra)***, had upheld the determination of functional disability at 100% by the High Court. The relevant extract of the judgment is as under: -

"5.4. The Appellant was 23 years old at the time when the accident occurred. Applying the multiplier of 18, the loss of future earnings suffered by the Appellant would work out to Rs. 15,000 X 12 X 18 = Rs. 32,40,000/-.

5.5. The High Court has rightly assessed the functional disability of the Appellant as 100%. The Appellant is suffering from hemiplegia due to which the left side of his body is barely functioning. On account of the permanent disability suffered, the Appellant was deprived of getting married and having a normal family life. His capacity to earn a living has been completely shattered for the rest of his life, and he has a become fully dependant person.

5.6. In the present case, it is an admitted position that it is not possible for the Appellant to get employed as a driver, or do any kind of manual labour, or engage in any agricultural operations whatsoever, for his sustenance.

In such circumstances, the High Court has rightly assessed the Appellant's functional disability at 100% insofar as his loss of earning capacity is concerned. The Appellant is, therefore, awarded Rs. 32,40,000/ towards loss of earning capacity.

5.7. We further find that the compensation awarded to the Appellant towards his medical expenses is highly insufficient. The Appellant has undergone 5 surgeries, including a surgery for a severe head injury, and 3 throat surgeries. The Appellant has not been awarded any amount whatsoever either by the MACT, or the High Court for the successive hospitalizations, surgeries and medical treatment.

In view of the facts and circumstances of the case, it would be just and fair to award a lump sum amount of Rs. 7,50,000/ towards hospitalization and medical expenses incurred in the past by the Appellant."

19. In the case of ***Jithendran vs New India Assurance Co. Ltd. and another, (2022)15 SCC 620***, in which said case the injured was 21 years old and earning about Rs. 4,500/month and suffered from the permanent disability of 69%, the Apex Court, while considering the law laid down in the case of ***Raj Kumar v. Ajay Kumar and another (supra)***, ***Chanappa Nagappa Muchalagoda v. Divisional Manager, New India Insurance Company Limited, (2020)1 SCC 796***, and ***Pappu Deo Yadav v. Nanesh Kumar and others, 2020 SCC Online 752***, had held as under :-

"*10.While the permanent disability as certified by the doctors stands at 69%,the same by no means, adequately reflects the travails the impaired claimant will have to face all his life. The 21 year old's youthful dreams and future hopes were snuffed out by the serious accident. The young man's impaired condition has certainly impacted his family members. Their resources and strength are bound to be stressed by the need to provide full time care to the claimant. For the appellant to constantly rely on them for stimulation and support is destined to cause emotional, physical and financial fatigue for all stakeholders.*

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16. As noted earlier, the impact on the earning capacity for the claimant by virtue of his 69% disability must not be measured as a proportionate loss of his earning capacity. The earning life for the appellant is over and as such his income loss has to be quantified as 100%. There is no other way to assess the earning loss since the appellant is incapacitated for life and is confined to home. In such circumstances, his loss of earning capacity must be fixed at 100%. As his monthly income was Rs.4,500/-, adding 40% future prospect thereto,the monthly loss of earning is quantified as Rs.6,300/-. We therefore deem it appropriate to quantify Rs.13,60,800/- (Rs.6,300 x 12 x 18) as compensation for 100% loss of earning for the claimant. Accordingly, under this head, the amount awarded by the High Court is enhanced proportionately."

20. Recently, the Apex Court in the case of ***Parvinder Singh v Honey Goyal, (2025) SCC*** where the injured was 21 years old and suffered

grievous injuries in an accident resulting in quadriplegia, while assessing the monthly income of the injured at Rs. 7,500/- per month has determined the loss of future income, taking the disability at 100%, and had awarded an amount of Rs 36,84,000/-. In the present case, the appellant was aged about 22 years at the time of the accident and is suffering from the same illness, quadriplegia. Hence, this court holds that the appellant for the purposes of determination of loss of future income, the same is to be made taking the permanent disability at the rate of 100%.

21. Thus, in view of the law discussed above, and the facts of the case ,this court is of the view that the percentage of loss of earning capacity of the appellant on account of the permanent disability should be 100%.

22. Further, according to Rule 220A of the UP Motor Vehicle Rules, 1998, the claim tribunal may also award compensation for future prospects according to sub-rule (3) of Rule (3) in case of permanent disability, depending upon the nature, extent, and its effect on the future of disabled claimants. Further under the said rule compensation for loss of future income due to permanent disability is at the rate of 50%, if the injured is below 40 years of age. However, in the present case, the learned tribunal has awarded compensation for loss of future income due to permanent disability at the rate of 40%. As already established above, in the present case, the appellant would not be able to work and earn in future in view of the injuries sustained in the accident. In the case of ***Sushil Kumar and another v. M/ S Sampark Lojastic Pvt. Ltd. and another, FAFO No. 2581 of 2011***, decided on 26.04. 2011, Division Bench of this Court has held that even if the accident occurred prior to 26.09.2011, the date on which Rule 220A was enforced, the claimants are entitled to compensation on future prospects as per amended Rule 220A of the U.P. Motor Vehicle Rules, 1998, in view of the fact that the Motor Vehicles Act, 1988, is a beneficial legislation.

23. In view of the above, this court assesses the functional disability of the appellant at 100% and is of the view that the appellant is entitled to get compensation for future loss of income due to permanent disability at the rate of 50% in accordance with provisions of Rule 220A. Hence, keeping in view the fact that the monthly income of the appellant was Rs.

5,000/-, his future income, being assessed at the rate of 50% would be Rs. 7,500/- per month and yearly income would be Rs 90,000/-.The appellant was 22 years of age at the time of the accident, and as such, a multiplier of 18 would be applicable. thus, the loss of future income of the appellant would be Rs 16,20,000/-.

24. As far as the attendant charges to which the appellant was entitled, the learned tribunal has awarded an amount of Rs. 69,600/@ Rs. 600 per day for 116 days the period, during which the appellant had been hospitalized. Although the learned tribunal has held that the spinal cord of the appellant is broken, he is bedridden and is even unable to follow daily routine without assistance, an additional sum of Rs. 1,00,000/- only has been awarded towards attendant charges.

25. In respect of the attendant charges, this court is of the view that once the learned tribunal concluded that the appellant was totally bedridden and had further awarded attendant charges at the rate of Rs. 600/ per day during the period of hospitalization, it was unreasonable and arbitrary on the part of the learned tribunal to have awarded only a meager amount of Rs.1,00,000/ towards attendant charges in future. The learned tribunal ought to have awarded attendant charges, taking into consideration the seriously impaired cognitive and physical capabilities of the appellant, who could not even get up from the bed without assistance from others.

26. The Apex court in the case of ***Kajal vs Jagdish Chand and others, (2020 4 SCC 413***, while determining the question of attendant charges, had held as under :-

"*22. The attendant charges have been awarded by the High Court @ 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 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. 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.*

23. It would be apposite at this stage to refer to the observation of Lord Reid in Taylor v. O'Connor:

"Damages to make good the loss of dependency over a period of years must be awarded as a lump sum and that sum is generally calculated by applying a multiplier to the amount of one year's dependency. That is a perfectly good method in the ordinary case but it conceals the fact that there are two quite separate matters involved- the present value of the series of the future payments, and the discounting of that present value to allow for the fact that for one reason or another the person receiving the damages might never have enjoyed the whole of the benefit of the dependency. It is quite unnecessary in the ordinary case to deal with these matters separately. Judges and counsel have a wealth of experience which is an adequate guide to the selection of the multiplier and any expert evidence is rightly discouraged. But in a case where the facts are special, I think, that these matters must have separate consideration if even rough justice is to be done and expert evidence may be valuable or even almost essential. The special factor in the present case is the incidence of Income Tax and, it may be, surtax."

24. This Court has reaffirmed the multiplier method in various cases like MCD v. Subhagwanti, U.P. State Road Transport Corporation v. Trilok Chandra, Sandeep Khanduja v. Atul Dande. This Court has also recognised that Schedule II of the Act can be used as a guide for the multiplier to be applied in each case. Keeping the claimant's age in mind, the multiplier in this case should be 18 as opposed to 44 taken by the High Court.

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 bed ridden. 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.4846/ 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 to Rs.21,60,000/ for the attendant charges for her entire life. This takes care of all the pecuniary damages."

27. Further, the Apex Court in the case of ***Jithendran v. New India Assurance Company Limited and another (supra)***, wherein the injured was 21 years old and was earning about Rs. 4,500/- per month from jewellery work and had suffered a permanent disability of 69% in the nature of severe impairment of cognitive power with hemiparesis and was

unable to perform everyday functions, had awarded attendant charges taking a conservative estimate at the rate of Rs. 5,000/- per month and after applying the multiplier of 18 had awarded compensation under the bystander head at Rs. 10,80,000/-.

28. Thus, this court, while applying the same principle as has been laid by the Apex Court and also keeping in view the fact that the learned tribunal had awarded attendant charges at the rate of Rs. 600/- per day, is of the view that the appellant is entitled to attendant charges at least at the rate of Rs. 4,000/- per month, and as such, the annual expenses under the said head comes to Rs. 48,000/- per month. On applying the multiplier of 18, as the appellant is aged 22 years, the amount to which the appellant would be entitled under the head of attendant charges comes to Rs. 8,64,000/-.

29. As far as the award of medical expenses incurred after the accident is concerned, the learned tribunal arrived at a finding that the appellant was admitted at various hospitals after the accident on 02.11.2007 and lastly, on 24.03.2010. However, the learned tribunal refused to award any amount towards medical expenses solely on the ground that the appellant had failed to produce any medical bills and had only filed prescriptions of doctors and medical reports. This court has perused the lower court record and finds that reference letter of City Hospital Meerut dated 03.11.2007, admission slip of All India Institute of Medical Sciences, Delhi dated 03.11.2007, discharge summary of Safdarjung Hospital, New Delhi dated 6.12.1987, discharge summary of Madhu Hospital, Hapur dated 24.01.2008, discharge slip of Medical College Meerut dated 29.4.2008, discharge slip of Medical College Meerut dated 01.09.2008, discharge slip of Subharti Hospital Meerut dated 09.01.2010, discharge summary of Madhu Hospital, Harpur, dated 06.03.2010 and discharge summary of Narayana Super Speciality Hospital, Meerut dated 24.03.2010 are on record. Other than that, there are various medical prescriptions of doctors and reports of various medical tests conducted from time to time on record.

30. Hence, it is evident that the appellant was admitted to various hospitals on as many as eight occasions over a duration of two and half years after the occurrence of the accident on 02.11.2007. Besides, the appellant also underwent a surgery during this while, when internal

fixation of a steel plate and screws on his spine was done. It is beyond doubt that the appellant would have incurred a substantial expenditure during the surgery and hospitalization in various hospitals, visiting doctors from time to time and getting various medical tests conducted. Thus, this court is of the view that the appellant is required to be recompensed for the expenditure so incurred in his medical treatment, even in the absence of medical bills, and the same, on a conservative basis, is assessed at Rs 2,50,000/-.

31. This Court is also aware of the fact that the Apex Court in the case of ***Raj Kumar vs. Ajay Kumar and another (supra)*** had held that when compensation is awarded by treating the loss of future earning capacity as 100% (or even anything more than 50%), the need to award compensation separately under the head of loss of amenities or loss of expectation of life may disappear. As a result, only a token or nominal amount may have to be awarded under the head of loss of amenities or loss of expectation of life. Otherwise, there may be duplication in the award of compensation in view of the same. Hence, this Court deems it fit not to interfere with the other claims awarded by the learned tribunal in the judgment and order dated 26.09.2022, other than that an amount of Rs 1,00,000/- is awarded for the loss of marriage prospects, as has been awarded by the Apex Court in similar circumstances in the case of ***Parvinder Singh Vs Honey Goyal (Supra)***.

32. Thus, in view of the findings recorded above, the compensation payable to the applicant is re-determined as under :-

Serial No.	Particulars	Amount
1.	Loss of future income due to 100% functional disability.	Rs. 16,20,000/-
2.	Attendant charges.	Rs. 8,64,000/-
3.	Medical Expenses.	Rs 2,50,000/-
4.	Future Medical Expenses.	Rs. 1,00,000/-
5.	Pain & Suffering.	Rs. 1,00,000/-
6.	Future Marriage Prospects.	Rs. 1,00,000/-
7.	Nutritional diet.	Rs 50,000/-

8.	Ambulance Charges.	Rs. 50,000/-
	TOTAL	Rs. 28,84,000/-

33. Thus, the appellant is entitled to a total compensation of Rs. 28,84,000/-, along with interest at the rate of 7% per annum from the date of filing of the claim petition before the learned tribunal till its actual payment, the amount of compensation so determined shall be paid by respondent no. 1 and respondent no. 5- insurance company, each having a liability to pay 50% of the amount so awarded, along with interest accrued thereon.

34. Thus, the present appeal is **allowed** and the judgment and order dated 26.09.2022 is modified to the above extent.

35. It is made clear that in terms of the impugned judgment and order dated 26.09.2022 passed by learned Tribunal, if the demand for documents in respect of the vehicle involved in the accident, U.P. 13 J 9576 and the driving license of the driver driving the said vehicle, is made by the respondent no. 5-insurance company from the owner of the said vehicle, Naeem Ahmad, son of Abdul Qayyum and if, the same are not provided to the respondent no. 5-insurance company by Naeem Ahmad, then the respondent no. 5-insurance company shall be at liberty to pay the amount due in terms of this judgment and recover the same from the owner of the vehicle, Naeem Ahmad-respondent no. 4.

36. The respondent no. 1 and respondent no. 5 are directed to pay the decreetal amount within one month from today. If the respondent no. 1 and respondent no. 5 have previously paid/deposited any amount in pursuance to the impugned judgment and order dated 26.09.2022, the same shall be adjusted against the decreetal amount awarded by means of the present judgment.

(Sudhanshu Chauhan,J.)

August 20, 2026
Gaurav

Digitally signed by :-
GAURAV PATEL
High Court of Judicature at Allahabad