

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****FAO-5994-2018 (O&M)****Date of Decision : 17.09.2025**

Ananya ... Appellant

Versus

Rajender Kumar and Others ... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Sumit Gupta, Advocate for the appellant.

Ms. Manvi Verma, Advocate for

Mr. Rajneesh Malhotra, Advocate for respondent No.3.

**ALKA SARIN, J. (Oral)**

1. The present appeal has been preferred by the claimant-appellant challenging the award dated 16.12.2017 passed by the Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as 'the Tribunal'). Two claim petitions were filed - one by the claimant-appellant herein for the injuries sustained by her and the other by her and her father on account of death of her mother in the same accident which took place on 12.06.2015. The claimant-appellant herein at the time of accident was 07 months old.

2. Since the only challenge in the present appeal is to the quantum of compensation on account of the injuries sustained by the claimant-appellant and the factum of accident is not in dispute, the facts are not being reproduced herein for the sake of brevity.

3. In the present case the Tribunal had awarded the following compensation :

<b>Sr. No.</b>	<b>Heads</b>	<b>Compensation Awarded</b>
1	For the disability	₹2,00,000/-
2	Medical bills	₹1,89,756/-
	<b>Total Compensation</b>	<b>₹3,89,756/-</b>
	<b>Interest</b>	<b>9% per annum</b>

4. As per the latest report of the Medical Board constituted by the Medical Superintendent, PGIMS, Rohtak pursuant to the order dated 07.03.2025 passed by this Court, the claimant-appellant is stated to have an IQ of 28 (severe intellectual disability accounting for 90% impairment). As per her neurosurgical assessment, her total disability is 46% neurological and 90% intellectual disability. Learned counsel for the claimant-appellant would contend that the claimant-appellant has already lost her mother and keeping in view the fact that she has suffered 90% intellectual disability and has a whole life ahead of her, the compensation awarded by the Tribunal is highly inadequate.

5. *Per contra* learned counsel for respondent No.3 is not in a position to dispute the condition of the claimant-appellant post the accident. No objections have been filed to the report submitted by Pt. B.D. Sharma, Medical Superintendent, PGIMS, Rohtak.

6. I have heard learned counsel for the parties.

7. The present is an unfortunate case where in an accident, which took place on 12.06.2015, the claimant-appellant received severe injuries resulting in 90% intellectual impairment and 46% neurological impairment. Her mother unfortunately succumbed to the injuries received by her in the accident. Even as per the disability certificate (Ex.P10) her intellectual disability was assessed as 90% and motor disability was assessed as 74%. As

per the discharge summary (Ex.P5), the claimant-appellant was seen by a team of neurosurgeons and critical care pediatricians. She was intubated and put on a ventilator. She was managed with antibiotic, antacid, antiepileptic, cerebral decongestant, analgesics, inotropes etc. and other supportive treatment. She was gradually weaned from the ventilator, inotropes and was extubated on 17.06.2015 and put on oxygen. She was discharged on 21.06.2015. The expenses to the tune of ₹1,89,756/- were incurred on the medical treatment (Ex.P7).

8. The issue of compensation, which is to be awarded for personal injuries, has been dealt with by the Hon'ble Supreme Court in the case of **Raj Kumar vs. Ajay Kumar & Anr. [2011 (1) SCC 343]** wherein it was laid down as under :

*“5. 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 4 medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life. Assessment of pecuniary damages under item (i) and under item (ii)(a) do not pose much difficulty as they involve reimbursement of actuals and are easily ascertainable from the evidence. Award under the head of future medical expenses – item (iii) -- depends upon specific medical evidence regarding need for further treatment and cost thereof. Assessment of non-pecuniary damages – items (iv), (v) and (vi) -- involves determination of lump sum amounts with reference to circumstances such as age, nature of injury/deprivation/disability suffered by the claimant and*

*the effect thereof on the future life of the claimant. Decision of this Court and High Courts contain necessary guidelines for award under these heads, if necessary. What usually poses some difficulty is the assessment of the loss of future earnings on account of permanent disability - item (ii)(a). We are concerned with that assessment in this case.”*

9. Further, Hon’ble Supreme Court in the case of **Kajal vs. Jagdish Chand & Ors. [2020 (2) RCR (Civil) 27]** has held as under :

*“20. Both the courts below have held that since the girl was a young child of 12 years only notional income of Rs.15,000/ per annum can be taken into consideration. We do not think this is a proper way of assessing the future loss of income. This young girl after studying could have worked and would have earned 11 much more than Rs.15,000/ per annum. Each case has to be decided on its own evidence but taking notional income to be Rs.15,000/ per annum is not at all justified. The appellant has placed before us material to show that the minimum wages payable to a skilled workman is Rs.4846/ per month. In our opinion this would be the minimum amount which she would have earned on becoming a major. Adding 40% for the future prospects, it works to be Rs.6784.40/ per month, i.e., 81,412.80 per annum. Applying the multiplier of 18*

*it works out to Rs.14,65,430.40, which is rounded off to Rs.14,66,000/-.”*

10. While granting the compensation, an addition of 40% was also made in the said case towards future prospects and a multiplier of ‘18’ was applied. Similarly in the case of **Baby Sakshi Greola vs. Manzoor Ahmad Simon & Anr. [2025 (1) RCR (Civil) 238]** where the incident related to a 07 years’ old child, who had met with an accident in 2009, Hon’ble Supreme Court once again assessed the income of the minor child as per the minimum wage as applicable to a skilled worker. In para 29 it was held as under :

*“29. This Court in the case of Kajal (supra) has held that taking notional income is not the correct approach. Instead, the 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. In this case, the minimum wage payable to a skilled workman in the State of Delhi at the time of the accident, i.e., 2nd June 2009, was Rs. 4,358/- per month.”*

11. Hon’ble Supreme Court in the cases of **Kajal** (supra), **Baby Sakshi Greola** (supra) and **Raj Kumar** (supra) have repeatedly held that in case of a minor child the income has to be assessed as that of a skilled worker as per the minimum wages prevailing at the relevant time. In the present case, the minimum wage at the time of accident i.e. in the year 2015 for a skilled worker was ₹6,276/- per month. In the cases of **Kajal** (supra) and **Baby Sakshi Greola** (supra), an addition of 40% was made towards loss of future prospects and a multiplier of ‘18’ was applied.

12. Taking a cue from the judgments in cases of **Kajal** (supra) and **Baby Sakshi Greola** (supra), this Court assesses the income of the claimant-appellant as ₹6,276/- per month. Her disability is assessed as 100% keeping in view the nature of her intellectual disability which is to the extent of 90% and her neurological disability which is to the extent of 46%. An addition of 40% is made towards loss of future prospects and a multiplier of '18' is applied for the purposes of calculating the amount of compensation.

13. Keeping in view the condition of the claimant-appellant and also the fact that she has lost her mother in the same accident and that she would require full time attendants to take care of her daily activities, this Court deems it appropriate to award the charges for two attendants according to the minimum wages for a skilled worker prevalent at the time of the accident in the State of Haryana which were ₹6,276/- per month. Thus, the appellant would be entitled to an amount of ₹27,11,232/- [ $₹6,276 \times 2 \times 12 \times 18$  (multiplier)] towards attendant charges.

14. The Tribunal has not awarded any compensation under the non-pecuniary heads i.e. transportation charges, pain and suffering, loss of amenities and loss of marriage prospects and special diet. This Court deems it appropriate to award ₹50,000/- towards transportation charges, ₹5,00,000/- towards pain and suffering, ₹3,00,000/- towards loss of amenities of life and marriage prospects and ₹50,000/- towards special diet. The amount of ₹1,89,756/- awarded by the Tribunal towards medical expenses is maintained.

15. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹6,276/-
2	Future prospects @ 40%	[₹6,276 + 2,510] = ₹8,786/-

4	Income after applying the multiplier of 18	[₹8,786 x 12 x 18] = ₹18,97,776/-
5	Attendant charges for 02 attendants	₹27,11,232/-
6	Transportation charges	₹50,000/-
7	Pain and suffering	₹5,00,000/-
8	Loss of amenities of life and marriage prospects	₹3,00,000/-
9	Special Diet	₹50,000/-
10	Medical expenses as assessed by the Tribunal	₹1,89,756/-
	<b>Total Compensation</b>	<b>₹56,98,764/-</b>

16. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount.

17. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [AIR 2025 SC 1713]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account of the appellant within six weeks from today. The particulars of the bank account alongwith the requisite documents in support thereof shall be furnished to the Insurance company within a period of two weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. Thereafter, the amount shall be invested in an FDR in a nationalized bank and the interest earned thereupon would be used for meeting the requirements of the claimant-appellant. The compliance shall be reported by the Bank to the Tribunal concerned. This arrangement is being made to safeguard the interest of the claimant-appellant who has to lead an assisted life and would look for lifelong treatment.

18. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

17.09.2025  
jk

**( ALKA SARIN )**  
**JUDGE**

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO