



C.M.A.No.1790 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2025

CORAM

THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

C.M.A.No.1790 of 2024

Minor Lakshidhan

(Minor is represented by his mother Renuka devi)

... Appellant / Petitioner

Vs.

1. K.Rajendran

2. United India Insurance Co. Ltd., (exonerated),
represented by its Branch Manager,
Perambalur.

3. Bajaj Allianz General Insurance Co. Ltd.,
G.E Plaza, Airport Road, Yerwada,
Pune – 411 006

(The 3rd respondent was impleaded as per Order passed in
I.A.Nos.1980 / 2018 to 1981 / 2018 dated 23.08.2018)

... Respondents / Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow the Civil Miscellaneous Appeal and to enhance the award amount passed by the Motor Accident Claims Tribunal / Principal District Judge, Perambalur by its Judgment dated 29.11.2023 made in M.C.O.P.No.302 of 2018.



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For Appellant	: Mr.C.Vidhusan
For R1	: Mr.A.Saravanan
For R2	: Notice is dispensed with
For R3	: Mr.J.Michael Visuvasam

JUDGMENT

Not being satisfied with the Award dated 29.11.2023 made in M.C.O.P.No.302 of 2018 passed by Motor Accident Claims Tribunal / Principal District Judge, Perambalur, the mother of the injured minor Lakshidhan has preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2. Parties are indicated herein as per their litigative status and ranking before the Tribunal.

3. The case of the claimant is that on 06.02.2017 at about 16.45 hours, while the claimant's father Elankumaran was driving Car bearing Registration No.TN 22 BH 4214 which belongs to the 1st respondent, insured with the 3rd respondent, along with their family members proceeding from north to south along Thuraiyur-Musiri main road and when the Car was nearing one Palaniyappan's house at Jambunathapuram, it was driven in a rash and negligent manner and in the result, it went out of the control of the driver and dashed upon the tamarind tree. Due to the said impact, the claimant's, minor sister Dhanurika two years old, succumbed to the injuries. The claimant minor



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Lakshidhan and his mother sustained serious injuries. Therefore, the 1st respondent as the owner of the vehicle and the 3rd respondent who is the insurer of the same are liable to pay compensation to the petitioner herein.

4. Details of counter of the 1st respondent is stated in brief:-

The 1st respondent had insured his vehicle with the 3rd respondent in Policy No. OG-17-1501-1081-00026418 for a period from 14.12.2016 to 17.12.2017. Tvl.Elankumaran purchased the above said vehicle and took delivery of the vehicle from the 1st respondent on 26.01.2017. The accident took place due to the rash and negligent act of the above said person and a case was registered against him.

5. Details of counter of the 3rd respondent is stated in brief:-

The interest of the 1st respondent in vehicle No. TN 22 BH 4214 was covered at the material time under the policy of insurance issued by the 3rd respondent.

6. At trial, on the claimant's side, two witnesses were examined and thirteen documents were marked. Ex.C2 is the Disability Certificate issued by District Medical Board, Perambalur. On the side of the respondents, one witness was examined and photo copy of the Insurance Policy Certificate of the car was marked as Ex.R1.



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7. The Tribunal upon consideration of the oral and documentary evidence and after hearing the arguments advanced by either side, granted compensation of Rs.2,13,708/- under various heads is tabulated hereunder:-

Sl. No.	Description	Amount awarded by Tribunal (in Rs.)
1	For Disability (35% x Rs.5000/-)	Rs.1,75,000/-
2	For Pain and Sufferings	Rs.10,000/-
3	For Extra Nourishment	Rs. 5,000/-
4	For Transportation	Rs. 5,000/-
5	Medical Expenses (as per Ex.P9 series)	Rs.18,708/-
	Total	Rs.2,13,708/-

8. Per contra, Mr.J.Michael Visuvasam, learned counsel appearing for the 3rd respondent / Baja Allianz General Insurance Company would vehemently contend that the amounts granted under different heads by the Tribunal are quite reasonable and does not warrant any interference by this Court.

9. It has come on record through the evidence of P.W1-mother of the minor petitioner that on account of the accident, the minor child suffered fracture of both bone of right leg besides facial lacerations and he was admitted as an inpatient at Kauvery Hospital, Trichy, from 06.02.2017 to 18.02.2017. He suffered fracture Talus (body) with compartment syndrome – left, Salter-Harris Type III fracture of Distal Tibial Epiphysis (medial), as per Ex.P7– Discharge summary issued by the Kauvery Hospital, Trichy.



10. It appears that the talus bone is covered by a significant amount of cartilage. Compartment syndrome is a medical emergency that can occur with high-energy injuries like talus body fractures. It is caused by swelling and bleeding within the closed compartment of the foot, which increases pressure and restricts blood flow to the muscles and nerves. Injured minor was referred to District Medical Board, Perambalur, for ascertaining the disability details. The District Medical Board assessed his disability at 35%, as per Ex.C2-Disability Certificate. This Court is conscious of the fact that the injured was 9 years old at the relevant point of time and in consideration of the fracture suffered by the minor, the functional disability is taken as 28% and Rs.7000/- per percent is granted.

11. For pain and sufferings, a sum of Rs.25,000/- is granted in addition to the amount already awarded by the Tribunal. For extra nourishment and for transportation an amount of Rs.15,000/- is granted in addition to the amount already granted by the Tribunal. For attender charges, an amount of Rs.20,000/- is granted. Considering the nature of fracture suffered by the minor, for loss of amenities, Rs.30,000/- is granted. As regards the other heads, the amounts granted by the Tribunal appear to be reasonable and acceptable and hence, it does not warrant any interference by this Court. The amounts granted under various heads after rework is tabulated and given hereunder:-



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Sl. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1	For Partial Permanent Disability (28% x Rs.7000/-)	1,75,000/-	1,96,000/-	Enhanced
2	For Pain and Sufferings	10,000/-	35,000/-	Enhanced
3	For Extra Nourishment	5,000/-	20,000/-	Enhanced
4	For Transportation	5,000/-	20,000/-	Enhanced
5	For Medical Expenses (Ex.P9 series)	18,708/-	18,708/-	Confirmed
6	For Attender Charges	-	20,000/-	Granted
7	For Loss of Amenities	-	30,000/-	Granted
	Total	2,13,708/-	3,39,708/- Rounded off as 3,40,000/-	Enhanced

12. Thus, the compensation awarded by the Tribunal is enhanced from Rs.2,13,708/- to Rs.3,40,000/- which would carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation (excluding the period of default if any).

13. In the result,

(i) The Civil Miscellaneous Appeal stands partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.2,13,708/- to Rs.3,40,000/-.

(iii) The 3rd respondent / Insurance Company is directed to deposit the enhanced compensation amount now determined by this Court i.e., Rs.3,40,000/- (less the amount already deposited if any) together with interest



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at the rate of 7.5% per annum (excluding the period of default if any) from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.302 of 2018 on the file of Motor Accident Claims Tribunal, Perambalur within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) The compensation now determined by this Court shall be deposited in any of the nationalized bank till the minor attains majority and the mother of the minor Renukadevi is permitted to withdraw quarterly interest from the said amount. After attaining majority, the claimant is permitted to withdraw the amount now determined by this Court along with interest and costs, after adjusting the amount, if any already withdrawn by filing cheque application before the Tribunal.

(v) The claimant is directed to pay the Court fee for the enhanced compensation amount, if required.

(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

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(3/3)

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Mac

R. KALAIMATHI, J.



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Copy to

1. The Motor Accident Claims Tribunal / Principal District Court, Perambalur.
2. The Section Officer,
VR Section,
High Court, Madras.

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