



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Special Leave Petition (C) No.17267 of 2024

RINA RANI MALLICK

PETITIONER(S)

VERSUS

SUSIM KANTI MOHANTY & ANR.

RESPONDENT(S)

JUDGEMENT

K. VINOD CHANDRAN, J.

1. This Special Leave Petition is filed against the order dated 21.08.2023 of the High Court of Orissa which enhanced the compensation granted to the minor child of the appellant for the injury suffered in a motor vehicle accident leading to amputation and permanent disability of the minor child.

2. The petitioner seeks further enhancement of the compensation. The motor accident occurred when the minor child along with her father and mother (appellant), was travelling in a bus which hit against a tractor. Though,

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Jayant Kumar Arora
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composite negligence was found, respondent No.2 was directed to pay the entire compensation. Finding the case to be one of joint tortfeasors, it was held that the claimant could proceed jointly or severally against all of them or either of them. The insurer has not filed an appeal, and we are only concerned with the quantum.

3. The child was a four-year-old who suffered 55% disability as per the certificate produced as Annexure P2. The diagnosis was of locomotor disability due to disarticulation at ankle joint. The child had been subjected to below knee amputation of the right leg. The Tribunal awarded a total compensation of Rs.20,03,328/- in the following manner:-

SI. No.	Heads	Amount
(i)	Expenses relating to medical expenses	Rs.1,55,554/-
(ii)	Compensation on account of future treatment.	Rs.50,000/-
(iii)	Attendant charges.	Rs.10,000/-
(iv)	Pain, suffering, loss of amenities.	Rs.5,00,000/-
(v)	Loss of marriage prospects.	Rs.2,00,000/-
(vi)	Conveyance and special diet.	Rs.20,000/-
(vii)	Loss of future earnings.	Rs.10,67, 774/-
	Total Compensation.	Rs.20,03,328/-

4. The High Court enhanced it with Rs.7 lakhs considering the inadequate amounts granted towards future treatment, dependent charges and the amounts granted towards other heads.

5. In this context, we have noticed a decision of this Court in ***Mallikarjun v. Divisional Manager, National Insurance Company Limited***¹, wherein a 12-year-old child in the accident suffered permanent disability of 34% of right lower limb and 18% to the whole body. This Court emphasising the fact that there could be no income for children and the notional income of Rs.15,000/- as per the second schedule, found that the compensation awarded on that basis would be inadequate. It was held that the compensation in such circumstances has to be under the non-pecuniary heads in addition to the actual amounts for treatment done, transportation, assistance of attendant, etc. Considering the fact that the main element of damage in the case of child victim is the pain, shock, frustration, deprivation of ordinary pleasures and enjoyment associated with healthy and mobile limbs, it was held that compensation should enable

¹ (2014) 14 SCC 396

the child to develop in such a manner as to offset, at least, to some extent, the inconvenience or discomfort arising out of the disability.

6. It was held that in addition to the heads for treatment, attendant expenses, etc. if the disability is above 10% and upto 30% Rs.3 lakhs; upto 60%, Rs.4 lakhs; upto 90%, Rs.5 lakhs and above 90%, it should be Rs.6 lakhs. A total of Rs.3,75,000/- was awarded in the said case.

7. Following the above cited decisions, this Court in *Kumari Kiran v. Sajjan Singh*², in the case of two children having respectively suffered the disability of 30% and 20% awarded a further sum of Rs.1 lakh in addition to Rs.3 lakhs determined in *Mallikarjun* (supra). The children were awarded Rs.5,43,844/- and Rs.5,58,876/-.

8. In the present case, disability is 55% and, in such circumstance, pecuniary compensation of Rs.4 lakhs is adequate as per the cited decision. However, in the present case, the Tribunal has adopted an income looking at the minimum wages and awarded a sum of Rs.10,67,774/. The actual expenses relating to treatment was also awarded in

² (2015) 1 SCC 539

addition to Rs.50% for future treatment. There were also additional amounts granted as seen from the tabulation above. In addition to this, the High Court had enhanced the amount with Rs.7 lakhs, thus, awarding a total compensation of Rs.27,03,328/- with simple interest @ 6% per annum.

9. We are of the opinion that there is no scope for any further enhancement in this case. The amount granted is far higher, that was granted in the two cited decisions.

10. The Special Leave Petition stands dismissed.

11. Pending application, if any, shall also stand disposed of.

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**J.
(SUDHANSU DHULIA)**

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**J.
(K. VINOD CHANDRAN)**

**NEW DELHI;
APRIL 30, 2025.**