



NC: 2025:KHC-D:16757
MFA No. 102392 of 2016
C/W MFA No. 102391 of 2016
MFA.CROB No. 100016 of 2017
AND 1 OTHER

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 28TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 102392 OF 2016 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 102391 OF 2016 (MV-I)

MFA CROSS OBJ NO. 100016 OF 2017 (MV-I)

MFA CROSS OBJ NO. 100038 OF 2017 (MV-I)

IN MFA NO. 102392/2016
BETWEEN:

THE DIVISIONAL CONTROLLER
K.S.R.T.C., SIRSI DIVISION, SIRSI
REPRESENTED BY ITS DEPO. MANAGER
K.S.R.T.C. RANEBENNUR DEPO.
RANEBENNUR, DIST. HAVERI
(OWNER AND SELF INSURER
OF THE KSRTC BUS BEARING NO.KA-31/F-1183)
REPRESENTED BY THE CHIEF
LAW OFFICER, N.W.K.R.T.C.,
CENTRAL OFFICE, HUBBALLI.

...APPELLANT

(BY SRI. I.C. PATIL, ADVOCATE)

AND:

KIRANKUMAR @ KIRAN
S/O. GUDDAPPA KAMMAR
AGE:20 YRS, OCC. AGRICULTURE AND STUDENT
R/O. UKKUND VILLAGE IN RANEBENNUR TALUK
DIST. HAVERI-581115.

...RESPONDENT



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(BY MISS SUDHA HULMANI AND SMT. ASHARANI,
ADVOCATES FOR SRI GIRISH S. HULAMANI, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MV
ACT 1988, PRAYING TO CALL FOR RECORDS IN MVC
NO.620/2015 ON THE FILED PRL. SENIOR CIVIL JUDGE AND
AMACT, RANEBENNUR AND SET ASIDE THE JUDGMENT AND
AWARD DATED 01.04.2016 PASSED IN MVC NO.620/2015 ON
THE FILED PRL. SENIOR CIVIL JUDGE AND AMACT,
RANEBENNUR, AS COMPENSATION AWARDED IS EXCESSIVE
AND EXORBITANT, BY ALLOWING THIS APPEAL.

IN MFA NO. 102391/2016

BETWEEN:

THE DIVISIONAL CONTROLLER
K.S.R.T.C., SIRSI DIVISION, SIRSI,
REPRESENTED BY IT'S DEPOT. MANAGER
K.S.R.T.C. RANEBENNUR DEPOT, RANEBENNUR,
DIST. HAVERI (OWNER AND SELF INSURER OF THE
KSRTC BUS BEARING NO.KA-31/F-1183)
REPRESENTED BY THE CHIEF, LAW OFFICER
N.W.K.R.T.C., CENTRAL OFFICE, HUBBALLI.

...APPELLANT

(BY SRI I.C. PATIL, ADVOCATE)

AND:

SHAMBHULINGAPPA S/O. NAGENDRAPPA HEGGERI
AGE:23 YEARS, OCC. AGRICULTURE,
R/O. UKKUND VILLAGE IN RANEBENNUR TALUK
DIST. HAVERI-581115.

...RESPONDENT

(BY MISS SUDHA HULMANI AND SMT. ASHARANI,
ADVOCATES FOR SRI GIRISH S. HULAMANI, ADVOCATE)



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THIS MFA IS FILED U/S.173(1) OF MV ACT, 1988,
PRAYING TO SET ASIDE THE JUDGMENT AND AWARD
DATED 01.04.2016 PASSED IN MVC NO.619/2015 ON THE
FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND
MEMBER, ADDITIONAL MOTOR ACCIDENT CLAIMS
TRIBUNAL, RANEBENNUR, AS COMPENSATION AWARDED
IS EXCESSIVE AND EXORBITANT, BY ALLOWING THIS
APPEAL.

IN MFA.CROB NO. 100016/2017
BETWEEN:

SHAMBHULINGAPPA S/O. NAGENDRAPPA HEGGERI,
AGE: 24 YEARS, OCC: AGRICULTURE, NOW NIL,
R/O: UKKUND VILLAGE, TQ: RANEBENNUR,
DIST: HAVERI-581115.

...CROSS OBJECTOR

(BY MISS SUDHA HULMANI AND SMT. ASHARANI,
ADVOCATES FOR SRI G.S. HULMANI, ADVOCATE)

AND:

THE DIVISIONAL CONTROLLER,
KSRTC, SIRSI DIVISION, SIRSI,
REP. BY ITS DEPOT MANAGER,
KSRTC, RANEBENNUR DEPOT,
RANEBENNUR, TQ: RANEBENNUR,
DIST: HAVERI-581115.

...RESPONDENT

(BY SRI I.C. PATIL, ADVOCATE)

THIS MFA.CROB IN MFA NO.102391/2016 IS FILED
UNDER ORDER 41 RULE 22 OF CPC. PRAYING TO DISMISS
APPEAL FILED BY APPELLANT CORPORATION AND
ENHANCE THE COMPENSATION AWARDED BY PRL. SENIOR



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CIVIL JUDGE AND AMACT, RANEBENNU IN MVC
NO.619/2015 DATED 01.04.2016 BY ALLOWING THIS
CROB AND ETC.,.

IN MFA.CROB NO. 100038/2017
BETWEEN:

KIRANKUMAR @ KIRAN S/O. GUDDAPPA KAMMAR
AGE:21 YEARS, OCC: AGRICULTURE, NOW NIL
R/O. UKKUND VILLAGE, TQ: RANEBENNUR
DIST:HAVERI-581115.

...CROSS OBEJCTOR

(BY MISS SUDHA HULMANI AND SMT. ASHARANI,
ADVOCATES FOR SRI G.S. HULMANI, ADVOCATE)

AND:

THE DIVISIONAL CONTROLLER
KSRTC, SIRSI DIVISION, SIRSI,
REP. BY ITS DEPOT MANAGER KSRTC
RANEBENNUR DEPOT, RANEBENNUR,
TQ:RANEBENNUR, DIST:HAVERI-581115.

...RESPONDENT

(BY SRI I.C. PATIL, ADVOCATE)

THIS MFA.CROB IN MFA NO.102392/2016 IS FILED
UNDER ORDER 41 RULE 22 OF CPC. PRAYING TO DISMISS
APPEAL FILED BY APPELLANT CORPORATION AND
ENHANCE THE COMPENSATION AWARDED BY PRL. SENIOR
CIVIL JUDGE AND AMACT, RANEBENNU IN MVC
NO.620/2015 DATED 01.04.2016 BY ALLOWING THIS
CROB AND ETC.,.

THESE APPEALS AND CROSS OBJECTIONS, COMING ON
FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED
THEREIN AS UNDER:



ORAL JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

The respondent/appellant-KSRTC being aggrieved by the common judgment and award passed in MVC No.619/2015 and MVC No.620/2015 dated 01.04.2016 by the Prl. Senior Civil Judge and AMACT, Ranebennur (for short ' the Tribunal') has filed these two appeals; whereas, these two cross-objections are filed by the respective claimants under Order XLI, Rule 22 of C.P.C. praying for enhancement of compensation.

2. Parties would be referred with their ranks as they were before the Tribunal for the sake of convenience and clarity.

3. The claimants in MVC Nos.619/2015 and 620/2015 have filed the respective claim petitions under S.166 of Motor Vehicle Act, 1988 praying for compensation in respect of the injuries sustained in road traffic accident involving motorcycle bearing No.KA-27/EB-0943 and KSRTC bus bearing No.KA-31/F-1183 on 11.09.2014 at



15.40 p.m. on Ukkund Veerapur road near Primary school at Ranebennur.

4. The claimant in MVC No.619/2025 has suffered the injuries in the aforesaid accident as per Ex.P.6-wound certificate, which are as follows:-

- 1) Contusion with abrasion over right eye;
- 2) Abrasion over chin;
- 3) Abrasion over chest;
- 4) Abrasion over right hand;
- 5) Abrasion over right knee;
- 6) Tenderness over right chest;
- 7) Tenderness over jaws;
- 8) Injured was treated and referred to higher center.
Feed back from Apoorva Nursing Home and X-rays shows fracture of L3 Radius
- 9) Fracture of Condyle right Tibia.



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5. The claimant in MVC No.620/2015 has sustained the following injuries as per Ex.P.10 wound certificate, in the accident:-

- 1) Fracture of right ulna bone
- 2) Fracture of Condyle of right Tibia
- 3) Abrasion over knee

6. On behalf of claimants, both claimants were examined as P.W.1 and P.W.2 apart from examining the doctor as P.W.3 and marking Exs.P.1 to P.13 before the Tribunal. On behalf of respondents, no evidence was let in.

7. After recording the evidence of both sides and hearing arguments of both sides, the Tribunal came to the conclusion that the accident happened due to rash and negligent driving of driver of KSRTC bus bearing No.KA-31/F-1183 and both the claimants have sustained injuries in the said accident and they are entitled For compensation under the following different heads:-



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In MVC Nos.619/2015 and MVC No.620/2015:-

1	For pain and suffering	Rs.35,000-00
2	Medical expenses	Rs.1,000-00
3	Attendant charges	Rs.2,000-00
4	Conveyance, food, diet, extra nourishment charges	Rs.4,000-00
5	Loss of income during laid up period	Rs.5,000-00
6	Loss of future earning capacity on account of permanent physical disability	Rs.1,68,480-00
7	Towards future medical expenses	Rs.6,000
Total		Rs.2,21,480-00

8. Thus, the Tribunal has granted the compensation at Rs.2,21,480/- each in both the cases with interest at 7% per annum.

9. Aggrieved by the same, the respondent-KSRTC has filed the present appeals contending that the disability taken by the Tribunal is not proper and the award of compensation under different heads by the Tribunal is on higher side.

10. Learned counsel for the appellant/respondent-KSRTC Sri I.C.Patil would submit that the Tribunal has assessed the disability of both petitioners at 13% to the



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whole body. But, doctor has opined that disability at 21% to the particular limb. Hence, the Tribunal ought to have taken disability at 7%. He would further contend that the doctor has assessed disability after long gap of 2 years 8 months and hence, the disability assessed by the doctor itself is not proper. Both claimants have sustained simple injuries. Hence, they are not entitled for any compensation towards loss of future earning capacity and further the interest awarded by the Tribunal at 7% is on higher side. Hence, prayed for allowing the appeals.

11. Learned counsel for respondents/claimants Miss.Sudha Hulamani for Sri.Girish Hulamani would submit that the Tribunal has not taken the income of claimants properly. It has taken income at Rs.6,000/- instead of taking it at Rs.7,500/-.

12. Learned counsel for respondents would further submit that the compensation under different heads by the



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Tribunal is also on lower side. Hence, prayed for enhancement of compensation.

13. Having heard the arguments of both sides and verifying appeal papers and also Trial Court records, the only point that would arise for consideration is:-

1. Whether the compensation awarded by the Tribunal is just and proper?

14. My finding on the above point is the **Negative** for the following reasons:-

The Date, place and time of accident, nature of injuries sustained by the claimants and the age of claimants is not in dispute.

15. The wound certificate of claimant in MVC No.619/2015 reveals that he had sustained totally 9 injuries. Out of them, injury Nos.8 and 9 i.e. fracture of right Radius and right Tibia are grievous in nature. The doctor who has issued disability certificate to this claimant has mentioned that there are some restrictions in



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movements and by examining the patient along with wound certificate and X-ray and other documents, the doctor determined that there is disability of 21.7% to the upper limb and lower limb.

16. The Tribunal has given detailed reasoning as to why she has accepted the disability certificate to certain extent and come to the conclusion that disability to the whole body would be 13%. However, the above finding of Tribunal is erroneous because this 21.7% is assessed by taking into the fracture of both upper and lower limbs and thus the Tribunal ought to have taken it at $\frac{1}{3}^{\text{rd}}$ of 21.7% i.e., 7% to the whole body. To that extent the finding of Tribunal is erroneous.

17. The wound certificate of claimant in MVC No.620/2015 reveals that he had sustained totally 3 injuries. Out of them, injury Nos.1 and 2 i.e., fracture of right Ulna and right Tibia are grievous in nature. The doctor who has issued disability certificate to this claimant



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has mentioned that there are some restrictions in movements and by examining the patient along with wound certificate and X-ray and other documents, doctor determined that there is disability of 21.7% to the upper limb and lower limb.

18. The Tribunal has given detailed reasoning as to why she has accepted the disability certificate to certain extent and come to the conclusion that disability to the whole body would be 13%. However, the above finding of Tribunal is erroneous because this 21.7% is assessed by taking into the fracture of both upper and lower limbs and thus the Tribunal ought to have taken it at $\frac{1}{3}^{\text{rd}}$ of 21.7% i.e., 7% to the whole body. To that extent the finding of Tribunal is erroneous.

19. The Tribunal has taken the income of claimant of both cases at Rs.6,000/- per month as no material is produced to show their actual income. When there is no document is produced to show the actual income of the



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claimants, the guidelines issued by Karnataka Legal Services Authority is to be considered to decide the notional income of the claimants. In the instant case, the accident has taken place in the year 2014 and hence the income of claimants is to be taken at Rs.7,500/- per month. Thus the claimants are entitled for compensation at $\text{Rs.7500} \times 12 \times 18 \times 7\% = \text{Rs.1,13,400/-}$ under the head-loss of future earning capacity.

20. As far as other heads are concerned towards pain and suffering for two fractured injuries, the Tribunal has already granted Rs.35,000/- each in both cases, which is proper. Likewise as no documents are produced, Tribunal has granted only Rs.1,000/- towards medical expenses in both cases which needs no interference. The claimants have not produced any material to show that they were admitted to any hospital and took treatment; even then they have sustained fractured injuries and therefore, they require some attendants for some period. Considering these facts, the attendant charges,



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conveyance, food and other heads, the Tribunal has awarded Rs.2,000/- Rs.4,000/- and Rs.5,000/- which needs no interference. As far as rate of interest is concerned, the Tribunal has awarded 7% interest without any basis. Considering the bank rate of interest, the interest ought to have been awarded at 6% per annum.

21. Thus, the claimants in both the petitions are entitled for total compensation as under:

1	For pain and suffering	Rs.35,000-00
2	Medical expenses	Rs.1,000-00
3	Attendant charges	Rs.2,000-00
4	Conveyance, food, diet, extra nourishment charges	Rs.4,000-00
5	Loss of income during laid up period	Rs.5,000-00
6	Loss of future earning capacity on account of permanent physical disability	Rs.1,13,400-00
7	Towards future medical expenses	Rs.6,000
Total		1,60,400-00

22. With these modifications, the judgment and award of Tribunal in other heads will be unaltered.

23. Thus, I proceed to pass the following:



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ORDER

1) Both appeals filed by the respondent-KSRTC are partly allowed.

2) Cross-objections filed by the claimants are dismissed.

3) Claimants in both the appeals are entitled for compensation of Rs.1,60,400/- each with interest at Rs.6% p.a.

4) Amount in deposit if any, shall be transmitted to the Tribunal.

4) No order as to costs.

Sd/-
(GEETHA K.B.)
JUDGE

HMB
LIST NO.: 1 SL NO.: 15