



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.102985/2016 (MV-I)
C/W
MISCELLANEOUS FIRST APPEAL NO.102984/2016

IN MFA NO.102985/2016
BETWEEN:

THE MANAGING DIRECTOR
NWKSRTC, HAVERI DIVISION, HAVERI,
REPRESENTED BY THE DEPOT MANAGER,
RANEBENNUR DEPOT, RANEBENNUR
(OWNER AND SELF INSURER OF THE KSRTC
BUS NO.KA-27/F-152),
REPRESENTED BY CHIEF LAW OFFICER,
NWKRTC, CENTRAL OFFICES, HUBBALLI.

...APPELLANT

(BY SRI S.C.BHUTI, ADVOCATE.)

AND:

MAHADEVAPPA S.K.
S/O. SHIDDABASAPPA KARAMALLER
AGE: 39 YEARS, OCC: COOLIE
R/O. HALAGERI, TQ: RANEBENNUR,
DIST: HAVERI.

...RESPONDENT

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

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER
SECTION 173(1) OF MOTOR VEHICLES ACT, PRAYING TO SET
ASIDE THE JUDGMENT & AWARD DATED 21.07.2016, PASSED IN
MVC NO.202/2015, ON THE FILE OF THE PRINCIPAL SENIOR



NC: 2025:KHC-D:16768
MFA No. 102985 of 2016
C/W MFA No. 102984 of 2016

CIVIL JUDGE AND MEMBER, ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, RANEBENNUR, IN THE INTEREST OF JUSTICE AND EQUITY.

IN MFA NO.102984/2016
BETWEEN:

THE MANAGING DIRECTOR
NWKSRTC, HAVERI DIVISION, HAVERI,
REPRESENTED BY THE DEPOT MANAGER,
RANEBENNUR DEPOT, RANEBENNUR
(OWNER AND SELF INSURER OF THE KSRTC
BUS NO.KA-27/F-152),
REPRESENTED BY CHIEF LAW OFFICER,
NWKRTC, CENTRAL OFFICES, HUBBALLI.

...APPELLANT

(BY SRI S.C.BHUTI, ADVOCATE.)

AND:

BASAVARAJ S/O. SHIDDAPPA CHANNAGOUDRA
AGE: 21 YEARS, OCC: COOLIE
R/O. DODDAGUDDI VILLAGE,
TQ: HIREKERUR, NOW RESIDING
AT: RANEBENNUR, DIST: HAVERI.

...RESPONDENT

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

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, 1988, PRAYING TO SET ASIDE THE JUDGMENT & AWARD DATED 21.07.2016, PASSED IN MVC NO.203/2015, ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND MEMBER, ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, RANEBENNUR, IN THE INTEREST OF JUSTICE AND EQUITY.

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



ORAL JUDGMENT

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

These are the appeals filed by the appellant under Section 173(1) of the Motor Vehicles Act, 1988 (for short, 'M.V.Act'), challenging the judgment and award passed in MVC Nos.202/2015 and 203/2015, dated 21.07.2016, on the file of Principal Senior Civil Judge and AMACT, Ranebennur (for short, 'Tribunal').

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

3. The common case of claimants in short before the Tribunal is that, when both claimants were standing with motorcycle of claimant in MVC No.202/2015, on the side of Rattihalli-Ranebennur road, on 03.09.2014 at 11.30 a.m., a KSRTC bus bearing registration No.KA-27/F-152, came from Rattihalli side towards Ranebennur and collided with goods auto rickshaw bearing registration No.KA-27/A-6251, which in turn collided to the motorcycle and because



of it, both claimants have sustained injuries in the accident. The claimants claimed that, they have sustained the following injuries.

Injuries sustained by the claimant in MFA No.102985/2016 (MVC No.202/2015)

- i) Fracture of condyle of right tibia;
- ii) Fracture of surgical of right shoulder;
- iii) Fracture of 3rd and 5th metatarsal bones.

Injuries sustained by the claimant in MFA No.102984/2016 (MVC No.203/2015)

- i) Fracture of ulna of right forearm;
- ii) Fracture of the right ankle lateral malleolus;
- iii) Fracture of the right clavicle bone.

4. The claimants further contended that, immediately after the accident, after taking first-aid treatment in the Government Hospital, they have been to Apoorva Hospital, Davangere, wherein they have taken treatment as in-patients from 03.09.2014 to 16.09.2014 and spent huge amount towards their treatment. Due to



that, they have sustained physical disability. They were working as coolies and because of the accident, they cannot do any work. Hence, prayed for compensation under different heads.

5. On receipt of notice, respondent has filed objection statement, wherein he has taken contention that, the accident happened not because of negligence on the part of the driver of the bus, but because of negligence of motorcycle rider and goods vehicle and a false charge-sheet is filed against the bus driver. They have also denied the other averments made in the petition regarding the age of claimants, nature of injuries sustained by them and their avocation and income.

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.19 before the Tribunal. On behalf of the respondent, the driver of the bus was examined as RW.1.



NC: 2025:KHC-D:16768
MFA No. 102985 of 2016
C/W MFA No. 102984 of 2016

7. After recording the evidence of both the sides and hearing the arguments of both the sides, the Tribunal came to the conclusion that the accident has been proved and claimant in both the cases are entitled for compensation at Rs.3,03,024/- and Rs.3,15,210/- respectively, under following different heads:

Compensation awarded by the Tribunal to claimant in MFA No.102985/2016 (MVC No.202/2015)

Sl. No.	Heads.	Amount in (₹)
1.	Pain and suffering.	40,000
2.	Medical expenses.	29,024
3.	Diet, food and nourishment.	10,000
4.	Loss of income during laid up period.	12,000
5.	Loss of future earning capacity.	1,62,000
6.	Loss of amenities and enjoyment of life	50,000
Total		3,03,024

Compensation awarded by the Tribunal to claimant in MFA No.102984/2016 (MVC No.203/2015)

Sl. No.	Heads.	Amount in (₹)
1.	Pain and suffering.	40,000
2.	Medical expenses.	30,842
3.	Diet, food and nourishment.	10,000
4.	Loss of income during laid up period.	12,000
5.	Loss of future earning capacity.	1,72,368
6.	Loss of amenities and enjoyment of life	50,000
Total		3,15,210



8. Aggrieved by granting of compensation and saddling entire liability on respondent, respondent/appellant has preferred the present appeal.

9. Heard arguments of learned counsels appearing for both the sides and perused the appeal papers along with the records of the Tribunal.

10. Learned counsel for appellant Sri S.C.Bhuti, would submit that there is contributory negligence on the part of claimants also because they were standing on the road talking with each other by parking the motorcycle and hence, some contributory negligence is there on their part. Further, there will be contributory negligence on the part of driver of goods auto-rickshaw also. Thus, the petition is bad for non-joinder of owners-insurers of both those vehicles. Learned counsel for appellant would further submit that the wound certificates do not reveal the fractures to both claimants. Only based on the report given by the doctor at



Apoorva Hospital, the doctor who has first treated the claimants has issued wound certificates as per Exs.P.6 and P.13, opining that there is fracture. However, the X-rays taken at that time were not produced. Further, the discharge card as per Exs.P.7 and P.14 reveals that the claimants admitted to the hospital on 03.09.2014 and discharged on 18.09.2014 and 16.09.2014 respectively and it shows that there are three fractures to both of them. However, X-rays are not produced. Further, discharge card is very vague and do not disclose the nature of the treatment given to both of them for a period of about 15 days and 13 days respectively.

11. The learned counsel for appellant would further submit that the disability certificate issued by a doctor who is not a treated doctor, that too 2-½ years after the accident. Furthermore, in cross-examination P.W.1 and P.W.2 have categorically admitted that they have taken treatment only at Apoorva Hospital and they continued to take treatment in the said hospital only. Under those



circumstances, the disability certificate issued by another doctor is doubtful. Furthermore, the rate of interest awarded by the Tribunal is 8% p.a. instead of 6% p.a. Furthermore, the compensation awarded by the Tribunal under the heads-pain and sufferings and loss of amenities is on higher side. Hence, prayed for allowing the appeals and for modification of the award.

12. Learned counsel for the respondent in both appeals-Smt.Sudha Hulmani for Sri G.S.Hulmani, would submit that the Tribunal has assessed the compensation properly and the compensation awarded by it, is just and proper. The doctor who treated at Apoorva Hospital was very busy and hence disability certificates were issued by the other doctor, who is examined as P.W.3 and has mentioned in the disability certificate that he examined all earlier documents of Apoorva Hospital. Hence, prayed for dismissal of both appeals and to confirm the judgment and award passed by the Tribunal.



13. Having heard the arguments of both the sides and verifying the appeal papers and also the Tribunal records, the points that arise for consideration are as under:

i) Whether the Tribunal has properly assessed the injuries sustained by the claimants and the disability sustained by the claimants?

ii) Whether the rate of interest granted by the Tribunal is just and proper?

14. My finding on point No.1 is in the 'negative' and point No.2 is in the 'affirmative', for the following:

REASONS

15. On perusal of records, it is noticed that the claimants contended that on 03.09.2014 at about 11.30 a.m., when they were standing beside Rattahalli-Ranebennur road with motorcycle, a KSRTC bus bearing registration No.KA-27/F-152 came from Rattihalli side



towards Ranebennur and dashed against the goods auto, which in turn dashed against the motorcycle and because of it, motorcycle fell down and claimants sustained the injuries.

16. The date and place of accident is not in dispute. The injuries sustained by the claimants are also not in dispute. But the only dispute is the nature of those injuries and the disability sustained by them and also the contributory negligence on the part of claimants.

17. On perusal of the FIR, complaint, spot panchanama, charge sheet, and also MVA report, they establish that, the front left hand side staircase body and front left side wheel arch of the bus were damaged; whereas both front and rear parts of the motorcycle were damaged and there were some damages to the goods auto rickshaw also.

18. The averments in FIR and spot panchanama and damages caused to the vehicles establish that because of



rash and negligent driving of the driver of the bus, the accident happened and the respondent has not established any contributory negligence on the part of claimants in causing the accident. Hence, impleading even the owners and insurers of motorcycle and goods vehicle as parties in the petition is also not required.

19. As far as injuries are concerned, Ex.P.6 wound certificate reveals that on 03.09.2015 at 01.40 p.m., the doctor examined the claimant-Mahadevappa, who came to the hospital with the history of road traffic accident took place on the same day and found tenderness over his right hip and restricted movement and also tenderness over superior aspect of right shoulder and restricted mobility.

20. The restricted movements and mobility of these two parts of the body indicate that there is every chance of fracture, which is clarified from the certificate issued by Apoorva Nursing Home. Furthermore, the discharge cards as per Ex.P.7 and P.14, reveal that POP was applied to the



right leg of claimant-Mahadevappa and POP was applied to right forearm and right ankle to claimant-Basavaraju. Except applying POP, no other treatment is shown in the discharged cards. Simply for applying this POP, patient would not be hospitalized for a period of 15 days or 13 days. Hence, these documents only establish that respective claimants have sustained fractured injuries, but they do not reveal the severity of those fractures.

21. On careful perusal of the cross-examination of P.W.1 and P.W.2, it reveals that they have deposed in similar manner that they do not remember the date on which they were discharged. According to them, they were unconscious and regained consciousness in the hospital and after regaining consciousness, they were discharged from the hospital. These things establish that they were not admitted to the hospital for 15 days. Furthermore, the medical bills issued by the Apoorva Nursing Home as per Ex.P.9 and P.16 would not reveal that IP number. Even in



discharge cards also, IP number of the patient is not mentioned.

22. These facts establish that the claimants have sustained only simple fractures and they were not admitted as in-patients in the hospital. However, definitely they had taken treatment for fractured injuries and incurred some medical expenses.

23. The doctor who has issued disability certificates is examined as PW.3. He has deposed that he has not treated the petitioners but has issued disability certificates only by examining the claimants and their earlier records. However, the earlier X-rays are not produced and only the X-rays which were taken at the time of issuing disability certificate were scrutinized by the doctors.

24. As discussed above, there were only simple fractures to claimant and they have deposed that they were taking treatment in Apoorva Nursing Home only and even now if they have any problem, then they are going to said



hospital only. Under those circumstances, the disability certificates issued by P.W.3 are not admissible one. However, the Tribunal has not considered these aspects properly and based on the disability certificate casually has awarded the compensation under the head-loss of future income, which is not proper.

25. On going through the fractured injuries sustained by claimants, I am of the opinion that granting compensation under all the heads by the Tribunal is on higher side. However, the claimants in both the cases are entitled for compensation of ₹30,000/- towards pain and sufferings, ₹20,000/- towards medical expenses, ₹10,000/- towards diet, food and nourishment, ₹10,000/- towards loss of income during laid up period and ₹25,000/- towards loss of amenities. No compensation could be awarded towards loss of future earning capacity. Therefore, in all, the claimants in both the appeals are entitled for a total compensation of ₹95,000/- each.



26. Further, the Tribunal has awarded interest at 8% p.a., which needs no interference. Hence, I proceed to pass the following:

ORDER

i) Both the appeals are allowed in part;

ii) The impugned judgment and award, dated 21.07.2016, passed in MVC No.202/2015 and MVC No.203/2015, by the Tribunal, are modified as follows:

a) The respondent/claimant in MFA No.102985/2016 (MVC No.202/2015) is entitled for total compensation of ₹95,000/- instead of ₹3,03,024/- awarded by the Tribunal;

b) The respondent/claimant in MFA No.102984/2016 (MVC No.203/2015) is entitled for total



compensation of ₹95,000/- instead of
₹3,15,210/- awarded by the Tribunal;

iii) The compensation amount will bear
interest at the rate of 8% per annum from the
date of claim petition till the date of realization;

iv) The appellant NWKRTC shall deposit
the compensation amount along with accrued
interest before the Tribunal, within a period of
eight weeks from the date of receipt of a certified
copy of this judgment.

v) Learned counsel for appellant NWKRTC
submits that the amount is already deposited.
Therefore, if any amount is in excess, that may
be refunded to the appellant on proper
identification.



NC: 2025:KHC-D:16768
MFA No. 102985 of 2016
C/W MFA No. 102984 of 2016

vi) The amount in deposit, if any, is ordered to be transmitted to the concerned Tribunal.

vii) No order as to costs.

viii) Draw modified award accordingly.

Sd/-
(GEETHA K.B.)
JUDGE

MRK
CT-CMU
LIST NO.: 1 SL NO.: 19