



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 3RD DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO.100186 OF 2021 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.100510 OF 2023 (MV-D)

IN MFA NO. 100186/2021:

BETWEEN:

MANAGING DIRECTOR,
NEKSRTC, CENTRAL OFFICE,
SARIGE SADANA,
KALBURGI, DIST. KALBURGI,
BUS NO.KA-32/F-1978,
JEVARGI DEPOT,
REPRESENTED BY CHIEF LAW OFFICER.

...APPELLANT

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

AND:

1. SMT. GEETA W/O MARUTI BALAGANUR
AGE. 34 YEARS,
OCC. HOUSE HOLD WORK,
2. KUMARI SANJANA D/O MARUTI BALAGANUR
AGE. 13 YEARS,
OCC. STUDENT,
3. KUMARI SINCHANA D/O MARUTI BALAGANUR
AGE. 10 YEARS,
OCC. STUDENT,
4. KUMARI SAHANA D/O MARUTI BALAGANUR
AGE. 7 YEARS,
OCC. STUDENT,



RESPONDENTS NO.2 TO 4 ARE MINORS
REP. BY THEIR NATURAL GUARDIAN
RESPONDENT NO.1.

5. SMT. MALLAVVA W/O SIDDAPPA BALAGANUR
AGE. 59 YEARS,
OCC. HOUSEHOLD WORK,

ALL ARE R/O. WARD NO.5, ANAND NAGAR,
R/O. BADAMI, TQ. BADAMI 587201.

...RESPONDENTS

(BY SRI. B.S. SANGATI, ADVOCATE FOR R1 TO R5)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, AGAINST THE JUDGMENT AND AWARD DATED 29.10.2020 PASSED IN MVC NO.138/2017 ON THE FILE OF THE MEMBER MOTOR ACCIDENT CLAIMS TRIBUNAL NO.VIII, BADAMI, AWARDED COMPENSATION OF RS.23,40,400/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL ITS REALIZATION & ETC.

IN MFA NO. 100510/2023:

BETWEEN:

1. SMT. GEETA W/O MARUTI BALAGANUR
AGE. 33 YEARS,
OCC. HOUSEHOLD,
2. KUMARI SANJANA D/O MARUTI BALAGANUR
AGE. 12 YEARS,
OCC. STUDENT,
3. KUMARI SINCHANA D/O MARUTI BALAGANUR
AGE. 09 YEARS,
OCC. STUDENT,
4. KUMARI SAHANA D/O MARUTI BALAGANUR
AGE. 06 YEARS,
OCC. STUDENT,



(APPELLANT NO.2 TO 4 ARE MINORS
R/BY THEIR NATURAL GUARDIAN APPELLANT NO.1)

5. SMT. MALLAVVA W/O SIDDAPPA BALAGANUR
AGE. 58 YEARS,
OCC. HOUSEHOLD WORK,
ALL ARE R/O WARD NO.5,
ANAND NAGAR,
R/O BADAMI, TQ. BADAMI.

...APPELLANTS

(BY SRI. B.S. SANGATI, ADVOCATE)

AND:

MANAGING DIRECTOR,
NEKSRTC, CENTRAL OFFICE,
SARIGE SADAN,
KALBURGI, DIST. KALBURGI,
BUS NO.KA-32/F-1978,
JEVARGI DEPOT.

...RESPONDENT

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

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, AGAINST THE JUDGMENT AND AWARD DATED 29.10.2020 PASSED IN MVC NO.138/2017 ON THE FILE OF THE MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL-VIII, BADAMI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION & ETC.

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

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.



ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE S G PANDIT)

The above appeals are directed against the judgment and award dated 29.10.2020 in MVC.No.138/2017 on the file of Member, MACT-VIII at Badami (for short, 'the Tribunal').

2. The claimants are in appeal in MFA No.100510/2023 seeking enhancement of compensation, whereas the NEKRTC is in appeal in MFA.No.100186/2021 against non-consideration of negligence of the deceased rider of the motorcycle and also questioning the quantum of compensation awarded by the Tribunal.

3. The parties would be referred to as they stood before the Tribunal.

4. The claimants - wife, children and mother of the deceased Maruti Siddappa Balaganur had filed claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') claiming compensation for the death



of Maruti Siddappa Balaganur in a road traffic accident that took place on 09.02.2017 involving motorcycle bearing No.KA-29-EC-5994 and KSRTC bus bearing No.KA-32-F-1978. It is stated that, the deceased was aged 35 years, doing Centring work and was earning a sum of Rs.30,000/- p.m.

5. On issuance of notice, the respondent/Corporation appeared and filed objection statement denying the claim petition averments and also contending that the accident occurred solely due to the negligent riding of the motorcycle by the deceased. It is denied that the accident occurred due to negligence of the driver of the bus.

6. In support of their case, the claimants examined PW1 to PW3 and marked Ex.P1 to Ex.P10. The respondent/Corporation examined RW1 and no documents were marked on behalf of respondent.



7. The Tribunal on scrutiny of the entire material on record, awarded total compensation of Rs.23,40,400/-. While awarding the above compensation, the Tribunal assessed the income of the deceased at Rs.10,000/- p.m., deducted $1/5^{\text{th}}$ of the income towards the personal expenses of the deceased, added 40% of the assessed income towards future prospects and adopted 16 multiplier.

8. Heard the learned counsel Sri.S.C.Bhuti for the Corporation and learned counsel Sri. B.S.Sangati for the claimants. Perused the entire appeal papers including original records of the Tribunal.

9. Learned counsel for the claimants Sri.B.S.Sangati would submit that the compensation awarded by the Tribunal is on the lower side and submits that the income assessed by the Tribunal is also on the lower side. The Tribunal ought to have assessed the notional income of the deceased at Rs.10,250/- p.m., though the claimants stated that the deceased was



earning Rs.30,000/- p.m. Further, learned counsel would contend that the compensation awarded on the head of loss of consortium is also on the lower side and prays for awarding proper compensation on each heads. Thus, learned counsel prays for allowing the appeal and to enhance the compensation.

10. Per contra, learned counsel for respondent/Corporation Sri.S.C.Bhuti would contend that the accident occurred solely due to the negligence of the deceased rider of the motorcycle, which the Tribunal failed to consider. Learned counsel referring to the sketch at Ex.P4 submits that, the rider of the motorcycle was coming from Hubli to Vijayapura and the KSRTC bus was coming from Vijayapura to Hubli. Further, learned counsel would submit that the road was under repair and only one side of the road was available for movement. It is submitted that the motorcycle came from opposite side and hit the KSRTC bus, due to which, the right side of the bus had sustained damage. Thus, learned counsel



would submit that the accident had occurred solely due to the negligence of the rider of the motorcycle.

11. With regard to quantum of compensation, learned counsel Sri. S.C. Bhuti would submit that there are five dependants and the appropriate deduction towards personal expenses of the deceased would be $1/4^{\text{th}}$ and not $1/5^{\text{th}}$, as taken by the Tribunal. Further, learned counsel would submit that the compensation awarded on the other heads are proper and fair. Therefore, he prays for allowing the appeal filed by the Corporation and to dismiss the appeal filed by the claimants.

12. Having heard the learned counsel appearing for the parties and on perusal of the entire appeal papers including the Trial Court records, the following points would arise for our consideration:

- a) Whether, as contented by the respondent/Corporation, the deceased rider of the motorcycle also contributed to the occurrence of the accident?



- b) Whether the quantum of compensation awarded by the Tribunal requires modification?

13. The answer to the above points would be in the negative and affirmative respectively, for the following reasons:

The accident that took place on 09.02.2017 involving motorcycle bearing No.KA-29-EC-5994 and KSRTC bus bearing No.KA-32-F-1978 and the resultant death of Maruti Siddappa Balaganur, the husband of first claimant, is not in dispute. The claimants are before this Court praying for enhancement of compensation, whereas the respondent/Corporation is before this Court questioning the quantum of compensation awarded by the Tribunal as well as non-consideration of negligence on the part of the rider of the motorcycle i.e., deceased.

14. Learned counsel for the respondent/Corporation contended that the accident occurred solely due to the negligent riding of the rider of the motorcycle i.e., deceased. To appreciate the said contention, we have perused Ex.P4-



spot sketch of the accident. The sketch would indicate that one side of the road was under repair and the traffic movement was only on one side of the road. The KSRTC bus was coming from Vijayapura to Hubli and the motorcycle was proceeding towards Vijayapura from Hubli. The sketch would indicate that the bus had taken to right from the middle of the road, though there was plenty of space on the left side of the road. The sketch further indicates that the motorcycle was moving on the left side of the road. The road width was 12 feet and the bus had turned to right crossing 6 feet of the road. Thus, the contention of the respondent/Corporation that the accident occurred due to sole negligence of the rider of the motorcycle cannot be accepted and the same is rejected.

15. The claimants stated that the deceased was doing Centering work and earning Rs.30,000/- p.m. But to establish the income and avocation of the deceased, the claimants have not placed on record any material. In the absence of cogent material to establish the income, it is for



the Tribunals and Courts to assess the income notionally. The notional income for the accidents of the year 2017 would be Rs.10,250/- per month, as per the chart prepared by the Karnataka State Legal Services Authority. The income of the deceased assessed by the Tribunal at Rs.10,000/- p.m., is on the lower side and therefore, taking note of the chart prepared by Karnataka State Legal Services Authority, we reassess the income of the deceased at Rs.10,250/- p.m.

16. There are five claimants i.e., wife, children and mother of the deceased. For five dependants, appropriate deduction would be $\frac{1}{4}^{\text{th}}$ and the Tribunal committed a grave error in deducting $\frac{1}{5}^{\text{th}}$ towards personal expenses of the deceased. Thus, we hold that the deduction towards personal expenses of the deceased would be $\frac{1}{4}^{\text{th}}$. The multiplier of 16 adopted by the Tribunal is proper. Thus, the claimants would be entitled for the modified compensation on the head of loss of dependency as under:

$\text{Rs.}10250 + 40/100 \times 12 \times 16 \times \frac{3}{4} = \text{Rs.}20,66,400/-$.



17. The Tribunal committed an error in awarding meager compensation on the conventional heads. Hence, in terms of decision of the Hon'ble Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi & Others¹***, the claimants would be entitled to **Rs.16,500/-** towards loss of estate, **Rs.16,500/-** towards funeral expenses. The consortium awarded by the Tribunal is not proper in terms of the ***Magma General Insurance Company Limited Vs. Nanu Ram & Others²***, each of the claimants would be entitled for Rs.44,000/- as consortium including 10% escalation.

18. Thus, the claimants would be entitled for the following modified compensation:

Sl. No.	Particulars	Amount
1.	Loss of dependency	Rs. 20,66,400/-
2.	Loss of consortium (Rs.44,000 each)	Rs. 2,20,000/-
3.	Loss of estate	Rs. 16,500/-
4.	Funeral expenses and transportation of body	Rs. 16,500/-
	Total	Rs. 23,19,400/-

¹ AIR 2017 SC 5157

² 2018 ACJ 2782



19. Thus, the claimants would be entitled to a total compensation of **Rs.23,19,400/-** as against **Rs.23,40,400/-** awarded by the Tribunal with interest at the rate of 6% per annum from the date of petition till date of realization.

20. In the result, we proceed to pass the following:

ORDER

- a) Both the appeals are ***allowed in part.***
- b) The impugned judgment and award of the Tribunal is modified holding that the claimants would be entitled to total compensation of **Rs.23,19,400/-** as against Rs.23,40,400/- awarded by the Tribunal.
- c) The entire compensation amount shall carry interest at the rate of 6% per annum from the date of petition till date of realization.
- d) The respondent-Insurance Company shall deposit the entire compensation amount with accrued interest before the Tribunal



within four weeks from the date of receipt of certified copy of this judgment.

- e) Apportionment, deposit & disbursement shall be made as per the award of the Tribunal.
- f) The amount in deposit, if any, be transmitted to the concerned Tribunal forthwith along with TCR.
- g) Draw modified award accordingly.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE