



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO.4798 OF 2022 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.823 OF 2023 (MV-D)

IN MFA No.4798/2022:

BETWEEN:

THE MANAGER
B.M.T.C.
SHANTHINAGAR,
BENGALURU - 560 027,
REP. BY ITS MANAGING DIRECTOR.

...APPELLANT

(BY SRI. D. VIJAYAKUMAR, ADVOCATE)

AND:

- 1 . SMT. BHAGYAMMA
W/O LATE LAKKANNA
AGED ABOUT 41 YEARS
- 2 . SRI RAGHU B.L.
S/O LATE LAKKANNA
AGED ABOUT 20 YEARS,
- 3 . KUM. LATHA B.L.
D/O LATE LAKKANNA
AGED ABOUT 17 YEARS,
- 4 . SMT SHARADHAMMA
W/O RAJANNA
AGE ABOUT 61 YEARS



NC: 2025:KHC:53070
MFA No. 4798 of 2022
C/W MFA No. 823 of 2023

(R-4 IS DEAD LR'S NO.1,2,3 AND 5 ARE THE ONLY LRS WHO ARE ALREADY ON RECORD).

SINCE RESPONDENT NO.3 IS MINOR,
REP.BY HER MOTHER AND NATURAL GUARDINA
RESPONDENT NO.1 SMT. BHAGYAMMA,

RESPONDENT NO.1 TO 4 ARE R/AT.
BYRANAHALLI VILLAGE
TEPPADABEGUR
NELAMANGALA TALUK
BENGALURU RURAL DISTRICT - 562 123.

5 . SRI. RAJANNA
S/O. LATE DODDAMARANNA
AGED ABOUT 67 YEARS
R/AT. BAICHAGUPPE,
BAICHAGUPPE POST,
TAVAREKERE HOBLI,
BENGALURU URBAN DISTRICT - 560 029.

...RESPONDENTS

(BY SRI. BOPANNA B, ADVOCATE FOR R1,R2 AND R5,
R3 MINOR REPRESENTED BY R1,
VIDE ORDER DATE4D 22/04/2025, R1, R2, R3 AND R5
ARE LRS OF R4)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DT.07.01.2022 PASSED
IN MVC NO. 1496/2016 ON THE FILE OF THE XVI ADDITIONAL
JUDGE, COURT OF SMALL CAUSES, MEMBER, MACT,
BENGALURU CITY, (SCCH-14), AWARDDING COMPENSATION OF
RS.29,15,900/- WITH INTEREST AT 7 PERCENT P.A. FROM THE
DATE OF PETITION TILL ITS REALIZATION.



IN MFA NO.823/2023:

BETWEEN:

- 1 . SMT BHAGYAMMA
W/O LATE LAKKANNA
AGED ABOUT 42 YEARS
- 2 . SRI RAGHU B.L.,
S/O LATE LAKKANNA
AGED ABOUT 21 YEARS
- 3 . KUM. LATHA B.L.,
W/O LATE LAKKANNA
AGED ABOUT 18 YEARS
- 4 . SMT SHARADHAMMA
AGED ABOUT 57 YEARS
W/O RAJANNA

SINCE DEAD BY HER LR'S
(APPELLANTS NO.1 TO 3 AND 5 ARE TREATED AS
LR'S)

APPELLANT NO.1 TO 4 ARE
R/AT BYRANAHALLI VILLAGE
TEPPADA BEGUR
NELAMANGALA TALUK,
BENGALURU RURAL DISTRICT-562 123.

- 5 . RAJANNA,
S/O LATE DODDAMARANNA
AGED ABOUT 63 YEARS,
R/AT BAICHAGUPPE,
BAICHAGUPPE POST,
TAVAREKERE HOBLI
BENGALURU URBAN DISTRICT-562 130.

...APPELLANTS

(BY SRI. BOPANNA B., ADVOCATE)



NC: 2025:KHC:53070
MFA No. 4798 of 2022
C/W MFA No. 823 of 2023

AND:

THE MANAGER
BMTc, SHANTHINAGAR
BENGALURU-560 027.
(BMTc BUS BEARING
NO.KA-01 FA-1884)

...RESPONDENT

(BY SRI. D. VIJAYAKUMAR, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 07.1.2022 PASSED IN MVC NO.1496/2016 ON THE FILE OF THE MEMBER, MACT, XVI ADDITIONAL JUDGE, COURT OF SMALL CAUSES, BENGALURU CITY (SCCH-14), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THESE APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 13.10.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA

CAV COMMON JUDGMENT

These appeals arise out of judgment and award dated 7th January 2022, passed by the XVI Addl.Judge, Court of Small Causes & M.A.C.T., Bengaluru (SCCH-14), (for short, `Tribunal'), in MVC.No.1496/2016.



2. MFA.No.4798/2022 is filed by BMTC - owner of the bus (for short, `Corporation') and MFA.No.823/2023 is filed by the claimants for enhancement of the compensation.

3. Both these appeals arise out of common judgment, therefore, they are taken up together for disposal.

4. For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

5. The brief facts of the case are that, on 22.01.2016, at about 3.00 p.m., the deceased Lakkanna and his friend Srinivas were going on a motorcycle bearing registration No.KA-52-J-6275, from Nelamangala towards Tavarekere. The deceased Lakkanna was the rider and Srinivas was the pillion rider. In front of Sondekoppa school, Dasanapura Hobli, both the riders of the motorcycle met with an accident due to rash and negligent driving of the bus belonging to the Corporation bearing



registration No.KA-01-FA-1884. As a result, both the riders of the motorcycle sustained grievous injuries. While undergoing the treatment, Lakkanna succumbed to the injuries on the same day at midnight.

6. It is further contended by the claimants that deceased was working at Electric Polymers Pvt Ltd., and earning a monthly salary of Rs.26,300/-. The claimants being the wife, children and parents of deceased Lakkanna, were dependent on him. With these reasons, claimants filed claim petition under Section 166 of Motor Vehicles Act, praying to award compensation of Rs.60 lakhs.

7. The respondent-Corporation in its written statement denied petition averments. It denied its liability to pay the compensation on the ground that the said bus was falsely implicated in the case. Accident occurred due to the negligence of the deceased. With these reasons, it prayed to dismiss the claim petition.



8. From the rival contentions of the parties, the Tribunal framed necessary issues.

9. Claimants to prove their case, examined six witnesses as PW-1 to PW-6 and marked 26 documents as per Exs.P-1 to P-26. The respondent examined RW-1 and marked Exs.R-1 and R-2.

10. The Tribunal after hearing the arguments of both the parties and considering the materials available on record, by the impugned judgment and award, held that accident occurred due to rash and negligent driving of the bus by its driver. The Tribunal awarded the following amount of compensation under different heads :

Particulars	Amount in Rs.
Loss of dependency	28,35,000/-
Transportation of dead body and funeral expenses	15,000/-
Filial consortium	40,000/-
Loss of estate	15,000/-
Medical bills	10,900/-
<i>Total</i>	<i>29,15,900/-</i>



11. I have heard the arguments of learned counsel appearing for both the parties.

12. The learned counsel for the Corporation vehemently contended that the bus belonging to the Corporation was falsely implicated in this case and it was not involved in the accident in question. The deceased Lakkanna was riding the motorcycle in a rash and negligent manner prior to the accident and in order to overtake another vehicle, he went to wrong side of the road and hit the right rear side of the bus. Hence, alleged accident occurred due to negligence of rider of the motor cycle.

13. Learned counsel further submits that the Corporation has made out its case on the following grounds :

(a) The rider of the motorcycle i.e., deceased Lakkanna negligently rode his motorcycle and hit the middle body of the bus, due to which, he fell down and



sustained head injuries and died, as such, the driver of the bus was not at all negligent in driving the bus;

(b) There is delay of a day in filing the complaint. The complainant was examined as PW-5 before the Court; there is impersonation; the signature of PW-5 in his deposition before the Court, in the complaint and mahazar are totally different, which clearly indicates that PW-5 is a planted witness and he was not a pillion rider;

(c) Both rider and pillion rider of the motorcycle were not wearing helmet, which clearly shows that death was due to negligence of the deceased and not due to the act of driver of the bus,

(d) akin to the entire facts and circumstances of the case, the Tribunal ought to have held that the accident occurred due to contributory negligence of deceased, as well as driver of the bus,

(e) The Tribunal has erred in taking the income of the deceased as Rs.15,000/- per month though the



documents produced by the claimants were not reliable and highly doubtful.

With these reasons, prayed to dismiss the claim petition. In the alternative, prayed to hold that accident occurred due to the contributory negligence of deceased and driver of the bus in the ratio of 60:40.

14. The learned counsel for the claimants vehemently contended that the driver of the bus was charge sheeted for the offences punishable under Sections 279 and 304A of IPC. The said charge sheet was not challenged by the driver of the bus and no complaint was filed against the rider of the motorcycle by the driver of the bus, alleging that deceased was responsible for the accident. Learned counsel further contended that the Tribunal has not considered the documents produced by the claimants properly and erroneously held that his income was Rs.15,000/- per month. The amount of compensation awarded under other heads are on the lower side and hence, prays to enhance the compensation by



upholding the answer to issue No.1 and prayed to dismiss the appeal filed by the Corporation.

15. The Tribunal while answering issue No.2, in detail discussed the evidence of both the parties. There is no need of repetition. Undisputedly, charge sheet was filed against the driver of the bus for causing the accident in question. The copy of the charge sheet and enclosures were produced before trial Court. The defence of the Corporation is not consistent. First of all, it has contended that PW-5 was impersonated; he was not travelling as a pillion rider in the motorcycle that met with an accident.

16. MVC.No.1496/2016 was earlier disposed of by the Tribunal by its judgment and award dated 19th October 2017. In the said judgment and award, the Tribunal held that accident had occurred due to the negligence of driver of the bus and in all awarded Rs.22,15,830/- as compensation. Being aggrieved by the said judgment and award, both claimants, as well as Corporation have preferred appeals in MFA.No.4003/2018 and



MFA.No.816/2018. The Co-ordinate Bench of this Court heard the matter and by its judgment and award dated 30th August 2021, allowed the appeals and set aside the judgment and award passed by the Tribunal and matter was remanded to the Tribunal to consider the matter afresh, after giving an opportunity of hearing to both the parties and to lead additional evidence.

17. Thereafter, at the request of the parties, Tribunal recorded the evidence of PWs.4 to 6. Similarly, recorded the evidence of RW-1 and marked Exs.R-1 and R-2. The Tribunal on re-appreciation of the evidence, once again held that accident occurred due to the negligence of driver of the bus and awarded the compensation of Rs.29,15,900/-, by the impugned judgment and award dated 7th January 2022.

18. It is vehemently contended by the respondent-Corporation that the accident had not occurred due to the involvement of the bus and in the alternative, the Corporation has contended that the accident occurred due



to the negligence of the deceased - rider of the motorcycle.

19. The claimants have examined PW-5 and PW-6 to prove the accident. PW-5 was said to be the pillion rider and an eye witness to the incident. He has stated regarding the rash and negligent driving of the bus by its driver. In his cross-examination, nothing was brought out to disbelieve his evidence. He denied the suggestion of respondent-Corporation that accident occurred due to the negligence of rider of the motorcycle. Without any pleading and evidence, in the appeal memo, it was contended by the Corporation that PW-5 was not a pillion rider, he was impersonated before the Court just to support the case of the claimants. Even there is no such suggestion to PW-5 in his cross examination. Even it is contended that the signatures found on Exs.P-2 and P-3 are not of PW-5. But comparison of the signature of PW-5 with signatures found on Exs.P-2 and P-3, they are similar and tally with the signature of PW-5 in his evidence.



Having taken such a contention, the respondent-Corporation has confronted Ex.R-2(a) and suggested that he has given said statement before the officer of the Corporation. The respondent-Corporation is blowing hot and cold at the same time, which is not permissible. Therefore, the said contention of respondent that PW-5 was impersonated is not proved.

20. The case of the claimants and evidence of PWs-5 and 6 are consistent. PW-5 has repeatedly contended that, when they were going towards Tavarekere side from Nelamangala on a motorcycle, driver of the bus drove the vehicle in a rash and negligent manner and hit the motorcycle. PW-6 is the Investigating Officer, who has conducted the investigation and submitted the charge sheet to the Court. In his cross-examination, nothing was brought out to hold that the evidence given by them was not believable.

21. The respondent-Corporation examined one witness as RW-1. According to his evidence, accident had



occurred due to the negligence of rider of the motorcycle. In his cross-examination, he has stated that he has not lodged any complaint against the rider of the motorcycle alleging that he was responsible for the accident and he had not challenged the charge sheet filed against him. He denied the suggestion that the accident was caused due to his rash and negligent driving. Admittedly, he was accused in a criminal case registered for causing the accident in question. Therefore, it is difficult to believe his evidence since he is an interested witness.

22. The criminal case was registered against the driver of the bus for causing the accident in question, which is not in dispute. The spot mahazar and map are produced at Exs.P-3 and P-22 respectively. The contents of both the documents reveal that width of the road at the spot of the accident was 30 ft. The said road was South to North. The bus was going from Tavarekere towards Nelamangala and motorcycle riders were coming from Nelamangala towards Tavarekere. The spot of the



accident is near to eastern edge of the road. From the contents of Exs.P-3 and P-22, the bus went to the wrong side of the road and hit the motorcycle on front side. These documents supports the contention of the claimants that the accident had occurred due to the negligence of driver of the bus.

23. It appears, a report was prepared by the Corporation through its officers as Exs.R-1 and R-2. The said report also reveal that the accident occurred due to the negligence of driver of the bus. There are no materials on record to disbelieve the case of the claimants.

24. The main argument of the learned counsel for the Corporation is that the damage was caused to the right rear side of the bus, which indicates that the two-wheeler came from rear right side of the bus and hit right rear portion of the bus, and caused the accident. It is nobody's case that rider of the motorcycle came from backside of the bus. On the contrary, RW-1 himself has stated that rider of the motorcycle came from opposite direction and



overtook another vehicle and hit middle portion of the bus. Therefore, the said contention of the Corporation is also not believable.

25. The Tribunal has discussed in detail the evidence of relevant witnesses and also considered the documents placed on record and has rightly come to the conclusion that the accident occurred due to the negligence of driver of the bus. On re-appreciating the oral and documentary evidence, this Court does not find any reasons to interfere in the findings of the Tribunal.

26. The learned counsel for the claimants contended that the amount of compensation awarded by the Tribunal is on the lower side. The Tribunal ought to have taken the income of the deceased as Rs.23,000/- per month as stated by PWs.2 and 3. It is further stated that the Tribunal has not awarded just compensation towards loss of consortium. In view of the law laid down by the Hon'ble Apex Court in the case of ***Magma General Insurance Co.***



Ltd., -vs- Nanu Ram Alias Chuhru Ram,¹ the Tribunal ought to have awarded proper compensation under the head 'loss of consortium'. Therefore, prayed to enhance the compensation.

27. The learned counsel for the Corporation submits that Tribunal has taken income of the deceased on higher side, though it was not proved. The claimants were unable to prove that deceased was earning Rs.23,000/- per month and the documents, as well as oral evidence given by PWs.2 and 3 are not reliable. Therefore, the Tribunal ought to have taken the notional income of the deceased as per the notional income chart prepared by the Karnataka State Legal Services Authority as Rs.9,500/- per month.

28. Learned counsel further contended that the claimant Nos.4 and 5 are parents and they have got their independent source of income. Therefore, they cannot be considered as dependents. If that is considered, the

¹ (2018) SC 1247



deduction shall be 1/3 and not 1/4 as deducted by the Tribunal. With these reasons, prayed to reduce the amount of compensation.

29. Claimants have examined two witnesses i.e., PW-2 and PW-3 and produced the relevant documents in this regard. As rightly noted by the Tribunal, the said documents do not inspire confidence to believe that deceased was earning Rs.23,000/- per month. Different documents state different income of the deceased. Ex.P-14 shows that the basic salary of deceased was Rs.15,000/-, HRA was Rs.9,000/- and TA as Rs.2,000/-. Ex.P-18 shows that basic pay of the deceased was Rs.8,129, HRA was NIL and production increment was Rs.5,080.65 ps. and gross pay was Rs.13,209/-. In the next document i.e., pay slip for the month of December 2015, his basic pay was Rs.12,000/- and gross pay was Rs.19,500/- and Rs.200/- was deducted towards professional tax.



30. As per the evidence of PW-3 - proprietor of Karthik Enterprises, wherein the deceased was working, the deceased was earning Rs.19,500/- per month. She did not explain regarding discrepancy in the basic pay of the deceased. PW-2 is a Supervisor in the said firm and he has stated that deceased was earning Rs.19,500/- per month. He has also not explained regarding discrepancy in the basic pay drawn by the deceased. Considering the said discrepancy and also not mentioning of the PF number, as well as ESI number, which is compulsorily to be noted in the pay slips, the Tribunal has assessed the income of the deceased as Rs.15,000/- per month. Considering the evidence of PWs.2 and 3 and the documents placed on record, the Tribunal was of the view that salary drawn by the deceased was Rs.15,000/- per month. There are no reasons to disbelieve the same.

31. PW-4 - mother of the deceased, in her evidence has stated that she and her husband were dependent upon the earnings of the deceased and they were aged persons.



There is no material on record to disbelieve their evidence. Considering these facts, the Tribunal held that there were five dependents and hence, deducted one-fourth of his income towards personal expenses. The deceased was aged about 39 years. Therefore, the Tribunal has added 40% of his income towards future prospects and undisputedly, the multiplier applicable in this case is `15'. On the basis of said factors, the Tribunal has rightly calculated the amount of compensation under the head `loss of dependency'.

32. The Tribunal has awarded compensation under the conventional head as per the law laid down by the Hon'ble Apex Court in the case of ***National Insurance Co. Ltd., -vs- Pranay Sethi²***, however, the Tribunal has not awarded the compensation under the head `loss of consortium' to each members of the family as per the law laid down by the Hon'ble Apex Court in the case of ***Magma General Insurance Co. Ltd., -vs- Nanu Ram Alias Chuhru***

² (2017) 16 SCC 680



Ram (*cited supra*). Therefore, the compensation requires to be enhanced under the said head. The remaining amount awarded by the Tribunal is just and reasonable and does not call for any interference by this Court. Therefore, claimants are entitled to enhancement of Rs.1,60,000/-.

33. The claimants are entitled to interest at the rate of 6% p.a. on the enhanced amount from the date of petition till its realization. Undisputedly, the respondent-Corporation is liable to pay the said amount.

34. for the aforesaid discussions, I proceed to pass the following:

ORDER

i) MFA.No.4798/2022 is dismissed and MFA.No.823/2023 is allowed in-part.

ii) The judgment and award dated 7th January 2022, passed in MVC.No.1496/2016, by the XVI Addl.Judge, Court of Small Causes and M.A.C.T., Bengaluru (SCCH-14), stands modified;



iii) The claimants are entitled to enhanced compensation of Rs.1,60,000/-, along with interest at the rate of 6% p.a. on the enhanced amount, from the date of petition till its realization.

iv) The respondent-Corporation shall deposit the amount within a period of six weeks from the date of award.

v) The remaining portion of the award with respect to apportionment, deposit and release of the amount are as ordered by the Tribunal.

vi) Whatever amount deposited by the respondent-Corporation before this Court, shall be transmitted to the concerned Tribunal for disbursement.

vii) Draw award accordingly.



NC: 2025:KHC:53070
MFA No. 4798 of 2022
C/W MFA No. 823 of 2023

Registry is directed to send back the records along with a copy of this judgment to the concerned Tribunal.

Sd/-
(UMESH M ADIGA)
JUDGE

BK
List No.: 1 Sl No.: 28