



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 9TH DAY OF JANUARY 2026

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 23145 OF 2013 (MV-)

BETWEEN:

1. SMT. MUBEENABANU
W/O. T. SUBAN,
AGE: 25 YEARS, OCC: HOUSEHOLD,
R/O: RAJIV NAGAR,
TANK ROAD, KOTTUR,
TQ: KUDLAGI,
DIST: BELLARY.
2. KUMAR ABUBAKAR SHIDDIQ
S/O. T. SUBAN,
AGE: 3 YEARS,
MINOR REPRESENTED BY MINOR,
GUARDIAN HIS MOTHER APPELLANT NO.1.
3. T. KASIMSAB
S/O. T. DADASAB,
AGE: 60 YEARS, OCC: CONTRACTOR,
R/O: RAJIV NAGAR,
TANK ROAD, KOTTUR,
TQ: KUDLAGI,
DIST: BELLARY.
4. SMT. T. IMAMBI
W/O. T. KASIMSAB,

BHARATHI
H M



Digitally signed by
BHARATHI H M
Location: HIGHCOURT
OF KARNATAKA
DHARWAD BENCH
DHARWAD



NC: 2026:KHC-D:210
MFA No. 23145 of 2013

AGE: 54 YEARS,
OCC: HOUSEHOLD,
R/O: RAJIV NAGAR,
TANK ROAD, KOTTUR,
TQ: KUDLAGI,
DIST: BELLARY.

...APPELLANTS

(BY SRI. DEEPAK MAGANUR, ADVOCATE FOR
SRI. CHANDRASHEKAR P. PATIL, ADVOCATE)

AND:

1. THE MANAGING DIRECTOR
AND SELF INSURANCE FUND,
N.W.K.S.R.T.C. GOKUL ROAD,
HUBLI, TQ: HUBLI, DIST: DHARWAD.
2. THE DIVISIONAL CONTROLLER,
N.W.K.S.R.T.C. GADAG DIVISION, GADAG.

...RESPONDENTS

(BY SRI. S.C. BHUTI, ADVOCATE FOR R1;
NOTICE TO R2 IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLE ACT, PRAYING TO CALL FOR RECORDS AND SET ASIDE THE JUDGMENT AND AWARD DATED 29-04-2011, PASSED BY THE LEARNED DISTRICT COURT AND MACT AT GADAG, IN MVC NO.157/2011 AND AWARD COMPENSATION AS CLAIMED IN THE CLAIM PETITION, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



ORAL JUDGMENT

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

This is the appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 (for short, hereinafter referred to as 'M.V. Act') praying for setting aside the judgment and decree dated 29.04.2013 passed in M.V.C.No.157/2011 on the file of the learned District Judge and M.A.C.T., Gadag (in short, 'the Tribunal') dismissing the claim petition filed under Section 163-A of M.V.Act.

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

3. The claimants being the legal heirs of deceased T.Suban Sab have filed the claim petition under Section 163-A of M.V.Act, contending that the deceased met with a road traffic accident on 18.10.2010 involving a New TATA ACE goods vehicle bearing registration No.KA-35/TR-1610Tr/10-11 and N.W.K.R.T.C. bus bearing registration No.KA-26/F-671 at Binkadakatti Forest Office. It is the contention of claimants that there is no fault on the part of deceased in causing the accident.



Claimants contended that they are the legal heirs of deceased and entitled for compensation.

4. After receipt of notice, respondents appeared through their counsel and filed written statement, wherein they have taken contention that the accident happened due to rash and negligent driving of the deceased in driving TATA ACE goods vehicle and there is no fault on the side of N.W.K.R.T.C. bus driver. Hence, prayed for dismissal of the claim petition.

5. On behalf of claimants, claimant No.3 was examined as P.W.1 apart from marking Exs.P-1 to P-17 and on behalf of the respondent, RW-1 was examined before the Tribunal.

6. After recording the evidence of both sides and hearing arguments of both sides, the Tribunal has dismissed the claim petition on the ground that the deceased was the cause for committing the accident and hence, the claimants are not entitled for compensation.

7. Aggrieved by the said judgment and award, the claimants/appellants are before this Court.



8. Heard arguments of learned counsels Sri Deepak Maganur and Sri S.C. Bhuti for appellants and respondent No.1 respectively. Learned counsel for appellants would submit that this is the petition filed under Section 163-A of the M.V. Act and hence, the Tribunal ought not to have gone into the details of negligence and it ought to have allowed the petition by awarding compensation to the claimants and thus, the judgment of the Tribunal is erroneous and prayed for allowing the appeal and to allow the petition filed before the Tribunal.

9. Learned counsel for respondents Sri S.C. Bhuti would submit that P.W.1 in his evidence has categorically admitted that the deceased was having income of ₹.1,80,000/- per annum and thus, the petition under Section 163-A of the M.V. Act is not maintainable because the income of deceased shall be less than ₹.40,000/- to attract said provision. Hence, prayed for dismissal of the appeal.

10. Having heard arguments of both sides and verified the appeal papers along with the Trial Court records, the only point that arises for consideration is



"Whether dismissal of the claim petition by the Tribunal is erroneous and it needs interference?"

The finding of this Court on the above point is in ***negative*** for the following reasons:

- i) Admittedly, the claimants have filed the petition under Section 163-A of the M.V. Act. Hence, considering the negligence of the driver of the bus or TATA ACE vehicle is not required to decide the petition and the only point that claimants have to establish that deceased died due to the accident occurred arising out of the use of motor vehicle in question.
- ii) The admitted facts are that the deceased was driving TATA ACE goods vehicle bearing registration No.KA-35/TR-1610Tr/10-11 and the driver of N.W.K.R.T.C. bus was driving the K.S.R.T.C. bus on 18.01.2010 at 12.15 noon on Gadag-Hubballi Road, near Binkadakatti opposite to Forest Office and because of collision



between two vehicles the accident has caused
and due to the accident, the driver of TATA ACE
has died and claimants are his legal heirs.

11. Now the only point to be considered is whether
petition under Section 163-A of the M.V. Act is maintainable.

12. In the affidavit evidence at paragraph No.3, P.W.1
has stated that the deceased was earning ₹.10,000/- from
transporting the goods from one place to another and was
getting ₹.5,000/- per month from driving and totally he was
earning ₹.15,000/- per month and his annual income was
₹1,80,000/-.

13. To file a petition under Section 163-A of M.V. Act, the
maximum income of the deceased shall be ₹.40,000/- per
annum as per the second schedule of M.V. Act. Admittedly, the
deceased was getting ₹1,80,000/- per annum at the time of his
death as per the averments made in the affidavit evidence itself.
Hence, the petition under Section 163-A of M.V. Act is not
maintainable.



14. This fact of income of deceased is not only stated in the affidavit evidence, but also admitted in the cross-examination of P.W.1. He has deposed in the cross-examination that "My son was earning ₹15,000/- per month. It is true to suggest that my son was earning ₹1,80,000/- per annum."

15. Only to get compensation under Section 163-A of MV Act, again the P.W.1 was recalled and filed his additional affidavit evidence wherein he had stated that the deceased was having income of only ₹3,330/- per month. However, again in the cross-examination held on 30.08.2011, he admitted that in his earlier affidavit evidence, he has stated that the income of deceased was ₹15,000/- per month and getting ₹1,84,000/- per annum and he has admitted said fact in his earlier evidence.

16. Once he has admitted in the evidence about the income of deceased, he cannot be permitted to withdraw such admission. Admittedly, the deceased was driving hired vehicles and also owned a TATA ACE goods vehicle which was purchased by him a few days prior to the accident. Under those circumstances, definitely the income of deceased cannot be ₹40,000/- per annum and it should be more than that.



17. If all these aspects are considered, definitely the petition under Section 163-A of the M.V. Act is not maintainable.

18. The Tribunal has not considered these aspects, but only considered the aspect of negligence and dismissed the petition. The reasons assigned by the Tribunal in dismissing the petition are not correct. But the finding of Trial Court in dismissing the petition is proper. Hence, this Court holds that the finding of Trial Court needs no interference. Accordingly, the point under consideration is answered in **negative** and this Court proceeds to pass the following:

ORDER

The appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is dismissed by confirming the judgment and award dated 29.04.2013 passed in M.V.C. No.157/2011 on the file of the District Judge and M.A.C.T., Gadag.

**Sd/-
(GEETHA K.B.)
JUDGE**

SSP
CT-MCK
LIST NO.: 1 SL NO.: 2