

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 17TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.101091 OF 2018

C/W

MFA CROB NO.100100 OF 2018

IN MFA NO.101091/2018:

BETWEEN:

THE DIVISIONAL CONTROLLER, NWKRTC,
SIRSI, UTTAR KANNADA DIVISION, SIRSI,
REPRESENTED BY THE CHIEF LAW OFFICER,
CENTRAL OFFICE, N.W.K.R.T.C., HUBBALLI-580030.

...APPELLANT

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

AND:

1. SMT. SUDHA @ SAROJA W/O. SUBRAY SHETTY
AGE: 36 YEARS, OCC: HOUSEHOLD WORK,
R/O. MATHA DHARESHWAR, TQ: KUMTA-581343.
2. RANJEETHA D/O. SUBRAY SHETTY
AGE: 16 YEARS, OCC: STUDENT,
MINOR, R/BY RESPONDENT NO.1,
R/O. MATHA DHARESHWAR,
TQ: KUMTA-581343.
3. JAYANTHA S/O. SUBRAY SHETTY
AGE: 14 YEARS, OCC: STUDENT,
MINOR, R/BY RESPONDENT NO.1,
R/O. MATHA DHARESHWAR,
TQ: KUMTA-581343.
4. SMT. SUSHEELA W/O. GANAPATI SHETTY
AGE: 61 YEARS,
R/O. MATHA DHARESHWAR, TQ: KUMTA-581343.

...RESPONDENTS

(BY SRI. ANKIT DESAI, ADVOCATE FOR R1 TO R4)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLE ACT 1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 14.09.2017 PASSED IN MVC NO.236/2016 ON THE FILE OF ADDL. MACT, KUMTA, AS COMPENSATION AWARDED IS EXCESSIVE AND EXORBITANT BY ALLOWING THIS APPEAL & ETC.

IN MFA CROB NO.100100/2018:

BETWEEN:

1. SMT. SUDHA @ SAROJA W/O LATE SUBRAY SHETTY
AGE: 37 YEARS, OCC: HOUSEHOLD,
2. KUMARI RANJEETHA D/O LATE SUBRAY SHETTY
AGE: 17 YEARS,
3. KUMAR JAYANTHA S/O LATE SUBRAY SHETTY
AGE: 15 YEARS,

CROSS OBJECTORS NO.2 & 3 SINCE MINORS
R/BY THEIR NATURAL MOTHER, CROSS OBJECTOR NO.1
SMT. SUDHA @ SAROJA.

4. SMT. SUSHEELA W/O. GANAPATI SHETTY
AGE: 62 YEARS, OCC. HOUSEHOLD,

ALL ARE R/O. MATHA, DHARESHWAR,
TQ: KUMTA, DIST. UTTARA KANNADA.

...CROSS OBJECTORS

(BY SRI. A.R. NAIK, ADVOCATE)

AND:

THE DIVISIONAL CONTROLLER, NWKRTC,
SIRSI, UTTAR KANNADA DIVISION, SIRSI,
REPRESENTED BY THE CHIEF LAW OFFICER,
CENTRAL OFFICE, NWKRTC, HUBBALLI-580030.

...RESPONDENT

THIS MFA CROSS OBJECTION IS FILED UNDER ORDER XLI RULE 22 OF THE CODE OF CIVIL PROCEDURE, PRAYING TO MODIFY THE COMPENSATION AWARDED DATED 14.09.2017 PASSED BY THE ADDL.M.A.C.T., AT KUMTA, IN M.V.C. NO.236/2016 AND ENHANCE THE COMPENSATION BY ALLOWING THIS CROSS OBJECTION AND ETC.

THE APPEAL AND THE CROSS OBJECTION HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 30.01.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

MFA Cross Objection No.100100/2018 has been filed by the claimants challenging the impugned judgment and award judgment and award dated 14.09.2017, in MVC No.236/2014 passed by the Addl. M.A.C.T at Kumta, awarding a sum of Rs.14,50,000/- together with interest at 6% p.a on account of the death of one Subray Shetty in a road traffic accident that occurred on 06.01.2016.

2. MFA No.101091/2018 has been filed by the Insurance Company challenging the quantum of compensation awarded and the liability fastened on it by judgment and award dated 14.09.2017, in MVC No.236/2014 passed by the Addl. M.A.C.T at Kumta.

3. Though the matters are listed for admission, with the consent of learned counsel for the parties, the same are taken up for final disposal.

4. The parties will be referred to as 'claimants' and 'Insurance Company' for the purpose of reference.

The brief facts of the case are as under:

5. On 06.01.2016, when deceased Subray Shetty who was walking by the side of the road, at NH-66, near Dhareshwara, the driver of the bus bearing No.KA-29/F-1223, who was driving the bus towards Dhareshwara, drove the same in a rash and negligent manner and dashed to Subray Shetty, who died on the spot. Thus, the claimants filed claim petition before the Tribunal.

6. Upon service of notice, the appellant appeared before the Tribunal through their counsel and filed written statement and denied the averments made in the claim petition.

7. It is submitted by the learned counsel for the appellants that the accident in question was due to rash and negligent act of the deceased himself who was under the influence of alcohol, tried to cross the road and accident has been caused. Further, it is submitted that the driver drove

the vehicle slowly following the rules and the false case has been filed against the driver of the bus to get compensation. The Tribunal has failed to take into consideration contributory negligence on the part of the deceased.

8. It is submitted that the deceased was aged 42 years old on the date of accident and he has four dependents, viz., wife, two minor children and aged mother. The deceased was running a Tea shop and self employed. It is contended that the Hon'ble Apex Court in ***National Insurance Company Ltd., V/s Pranay Sethi and others*** reported in ***(2017) 16 SCC 680***, has held that 25% of escalation has to be added to the notional income for determining future prospects for self-employed person between 40 and 50 years. The Tribunal failed to follow the Lok Adalat guidelines which stipulate that in respect of an accident that took place in the year 2016, the notional income should be taken as Rs.8,750/- per month and in view of the law laid down by the Apex Court in ***Pranay***

Sethi's case, the Tribunal ought to have added 25% of future prospects to the notional income of Rs.8,750/- per month. It is also contended by him that the Tribunal has failed to consider the law laid down by the Apex Court in the case of **Magma General Insurance Company Limited vs. Nanu Ram & Others** reported in **(2018) 18 SCC 130** and reiterated by the Division Bench of this Court in **M.F.A.No.1100/2019 & connected matters** disposed of on **12.06.2019** in awarding compensation towards 'loss of consortium'. He therefore requests this Court to award Rs.1,60,000/- towards loss of future prospects as the deceased has four dependants and enhance the compensation by modifying the impugned judgment and award passed by the Tribunal.

9. It is further submitted that the deceased has got four dependants and 1/4th of income has to be deducted towards personal expenses of deceased, whereas the Tribunal has wrongly deducted 1/3rd of personal expenses.

10. Per contra, learned counsel for the respondent-Insurance company submitted that the Tribunal without considering the material on record and evidence adduced, erroneously held that the accident occurred due the negligence of the driver of the NWKRTC bus alone and awarded exorbitant compensation of Rs.14,50,000/- with interest at 6% per annum.

11. Heard the learned counsel for both the parties, perused the impugned Judgment and material available on record.

12. The Tribunal has awarded compensation under various heads as under:

1.	Transportation and funeral expenses	30,000/-
2.	Loss of Love and Affection to Petitioner No.4	1,00,000/-
3.	Loss of Love and Affection to Petitioner Nos.2 to 3 (Rs.50,000/- each)	1,00,000/-
4.	Loss of consortium to Petitioner No.1	1,00,000/-

5.	Loss of dependency	11,20,000/-
	TOTAL	14,50,000/-

13. As rightly contended by the learned counsel for the appellants, the Tribunal committed an error in failing to appreciate the Lok Adalat guidelines which stipulate that in respect of an accident that took place in the year 2016, the notional income should be taken as Rs.8,750/- per month. As held by the Hon'ble Apex Court in ***National Insurance Company Ltd., V/s Pranay Sethi and others*** reported in ***(2017) 16 SCC 680***, 25% of escalation has to be added to the notional income for determining future prospects for self-employed person between 40 and 50 years. The multiplier applicable as per ***Sarla Varma and others vs. Delhi Transport Corporation and another (Civil Appeal No.3483/2008 – D.D.15.04.2000)*** for age group of 40 to 50 years is '14'. The Tribunal failed to follow the Lok Adalat guidelines which stipulate that in respect of an accident that took place in the year 2016, the notional income should be taken as Rs.8,750/- per month and in

view of the law laid down by the Apex Court in **Pranay Sethi's** case, the Tribunal ought to have added 25% of future prospects to the notional income of Rs.8,750/- per month. Hence, the compensation under the head 'loss of dependency' is reworked as hereunder:-

$(Rs.8,750 + 25\% (Rs.2,187/-) = Rs.10,937/- \text{ minus } 1/4^{\text{th}} (Rs.2,734/-) = Rs.8,203/-$

$Rs.8,203 \times 12 \times 14 = Rs.13,78,104/-$

Hence, the appellants are entitled to total compensation of **Rs. 13,78,104/-** under this head.

14. Further, claimants are entitled for **Rs.1,60,000/-** towards 'loss of consortium' as the deceased has got four dependants, viz., wife, two minor children and aged mother as per the principles laid down by the Apex Court in **Magma's case**. So also the claimants are entitled to **Rs.15,000/-** towards loss of estate and a sum of **Rs.15,000/-** towards funeral expenses.

15. As regards the contributory negligence, the Tribunal has come to the conclusion that 100% negligence has to be fixed on the driver of the KSRTC bus. The said finding being based on correct appreciation of material on record, the same does not warrant interference by this Court.

16. The claimants are entitled for compensation as under:

1.	Loss of Dependency	13,78,104/-
2.	Loss of consortium	1,60,000/-
3.	Transportation of dead body, funeral expenses charges and miscellaneous expenses	15,000/-
4.	Loss of estate	15,000/-
	TOTAL	15,68,104/-

17. In view of the aforesaid discussion, I pass the following order:-

(i) MFA No.101091/2018 filed by the Insurance Company is hereby ***dismissed***.

(ii) MFA CROB. No.100100/2018 is ***partly allowed.***

(iii) The impugned judgment and award dated 14.09.2017, in MVC No.236/2014 passed by the Addl. M.A.C.T at Kumta, is hereby modified.

(iv) The claimants in MFA CROB.No.100100/2018 are entitled to compensation of **Rs.15,68,104/-** which shall carry interest at the rate of 6% p.a., from the date of claim petition till realization.

(v) Insurance Company shall deposit the compensation amount along with accrued interest, if any, within eight weeks from today.

(vi) The apportionment and disbursement to be done as per the impugned judgment and award passed by the Tribunal.

(vii) Registry is directed to send back TCR along with copy of this Judgment to the Tribunal, forthwith.

No order as to costs.

**Sd/-
(DR. K.MANMADHA RAO)
JUDGE**

BNV, CT:VP