

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 23RD DAY OF JANUARY, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.104351 OF 2019 (MV-I)

BETWEEN:

THE DIVISIONAL CONTROLLER,
KSRTC, BELAGAVI-590 001.
(OWNER AND INSURER OF KA-19/F-3301,
ATTACHED TO UDUPI DEPOT)
REPRESENTED BY IT'S N. NAGARAJ
CHIEF LAW OFFICER, KSRTC.

...APPELLANT

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

AND:

FAKIRSAB S/O MABUSAB VANTI
AGE.21 YEARS, OCC. COOLIE, NOW NIL,
R/O MAGNUR, RAMDURG TALUK,
BELAGAVI DISTRICT-591 123.
NOW AT 5TH CROSS, AZAM NAGAR,
BERLGAVI-590 001.

...RESPONDENTS

(BY SRI. HANAMANT R. LATUR, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT 1988, PRAYING TO MODIFY/SET ASIDE THE JUDGMENT AND AWARD IN MVC NO.636/2018 DATED 09.07.2019 ON THE FILE OF IV ADDITIONAL DISTRICT JUDGE AND MACT-IV, BELAGAVI AT BELAGAVI IN RESPECT OF FIXING THE LIABILITY ON THE APPELLANT AND ALSO THE QUANTUM OF AWARD AMOUNT, WHICH IS AT HIGHER SIDE, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS MFA HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 09.01.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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

MOHANKUMAR
B SHELAR

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MOHANKUMAR B SHELAR
Location: High Court of
Karnataka, Dharmwad Bench
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CAV JUDGMENT

1. This appeal is filed by the appellant-KSRTC calling in question the Judgment and Award dated 09.07.2019 passed by the Court of IV Additional District Judge and MACT-IV, Belagavi, ('the Tribunal' for short) in MVC No.636/2018, wherein compensation of Rs.4,65,474/- with interest at 6% per annum was awarded in favour of the claimant.

2. The brief facts of the case are that;

On 04.03.2017, the petitioner, Fakirsab Mabusab Vanti was traveling in KSRTC bus bearing Reg.No.KA-19/F-3301 from Ramdurg to Kundapur. At about 5:00 A.M., near Bailur Cross on Murdeshwar-Bhatkal road, the bus allegedly went out of control due to rash and negligent driving by its driver and dashed into a heap of wooden logs placed by the roadside. The petitioner suffered grievous injuries and was initially admitted to Government Hospital, Murdeshwar, before being shifted to KIMS, Hubballi as inpatient for further treatment. He incurred expenses of over

Rs.1,50,000/- for medical treatment. At the time of the accident, the petitioner was aged 19 years and working as coolie earning Rs.15,000/- per month. Due to the injuries, he suffered permanent physical disability and was unable to continue the previous work, resulting in a loss of income. Hence, petitioner filed claim petition under Section 166 of M.V.Act seeking compensation.

3. The respondent filed objections and denied that the accident occurred due to negligence of the bus driver and disputed the petitioner's claim regarding medical expenses, age, income, disability, and occupation. It is contended that the driver of the KSRTC bus was driving with care and caution, and the accident occurred only because another vehicle suddenly appeared in the middle of the road while attempting to overtake. To avoid a head-on collision, the bus driver swerved to the roadside, which led to the accident. The respondent further alleged that the police filed a false charge sheet against the bus driver and therefore prayed for dismissal of the petition.

4. Based on the pleadings of the parties, the Tribunal framed issues. The petitioner was examined as P.W.1, the doctor was examined as P.W.3 and got marked Exs.P1 to P19. The respondent-Corporation did not lead any evidence. The Tribunal after assessing the oral and documentary evidence, allowed the claim petition in part with costs and awarded compensation of Rs.4,65,474/- with interest at the rate of 6% p.a. from the date of petition till realization.

5. Aggrieved by the quantum of compensation awarded by the Tribunal, the present appeal is filed by the appellant-Corporation.

6. The learned counsel for the appellant contended that the Tribunal wrongly relied on the evidence of PW-3, who was not the treated doctor, and accepted the disability certificate assessing 50% disability to the limb without any proper basis. Though whole-body disability was assessed at 12%, the Tribunal erred in presuming functional disability at 20%. He submits that considering that the claimant

sustained fracture of toes and medial malleolus and was treated as an inpatient only for 14 days, the amounts awarded towards pain and suffering and loss of amenities are excessive. The Tribunal failed to appreciate that physical disability does not automatically result in loss of future earning. The award of Rs.3,45,600/- towards loss of future income and the total compensation of Rs.4,65,474/- are excessive and call for interference.

7. Per contra, learned counsel appearing for the respondent-claimant submits that the compensation awarded by the Tribunal is just and reasonable and does not call for further interference. He submits that the accident occurred in the year 2017. As per the chart prepared by the Karnataka State Legal Services Authority, the notional income for the said year is Rs.10,250/- per month, the same has to be adopted. The claimant is a manual worker, and merely because he studied up to SSLC, it cannot be presumed that he was not doing physical labour.

8. He further submits that considering the nature of injuries sustained and their impact on the claimant's ability to work, assessment of functional disability at 15% is just and reasonable. He submits that considering the income of the claimant at Rs.10,250/- and taking disability at 15%, the compensation under the head loss of earning capacity has to be awarded. The claimant was hospitalized and underwent treatment. Taking the monthly income at Rs.10,250/-, the loss of income during the laid-up period of three months, i.e., Rs.30,750/- is to be awarded. He submits that the compensation awarded under the other heads, namely medical expenses, pain and suffering, food and nourishment, attendant charges, travelling expenses and loss of amenities, is fair, reasonable and proportionate to the injuries suffered. Hence, on these grounds, learned counsel for the respondent-claimant that the modified award is in accordance with law and the appeal does not merit any further reduction.

9. Heard the learned counsel for the appellant-Corporation, learned counsel for the respondent-claimant and perused the material on record.

10. The accident occurred in the year 2017. As per the chart prepared by the Karnataka State Legal Services Authority for the year 2017, the notional income is required to be taken at Rs.10,250/- per month. Therefore, the monthly income of the claimant is taken at Rs.10,250/- instead of Rs.8,000/- per month fixed by the Tribunal.

11. As regards disability, the Tribunal assessed whole-body disability at 12%, but taken functional disability at 20%. Having regard to the nature of injuries sustained by the claimant and his avocation, this Court is of the considered view that functional disability at 15% would meet the ends of justice. Considering the age of the petitioner, the appropriate multiplier applicable is '18'.

12. Accordingly, the compensation under the head loss of future earning capacity is recalculated as under:

$$\text{Rs.10,250/-} \times 12 \times 18 \times 15\% = \text{Rs.3,32,100/-}$$

13. The claimant was inpatient for about 14 days and would have been unable to work for at least three months. Hence, loss of income during laid-up period is calculated as under:

$$\text{Rs.}10,250 \times 3 \text{ months} = \text{Rs.}30,750/-$$

14. The compensation awarded by the Tribunal under the other heads, namely medical expenses, pain and suffering, food and nourishment, attendant charges, travelling expenses and loss of amenities including loss of marital prospects, is found to be just and reasonable and is left unaltered.

15. Thus, the compensation payable to the claimant is reassessed as under:

Sl. No.	Head of compensation	Amount (Rs.)
1	Loss of future earning capacity	3,32,100
2	Medical expenses	1,374
3	Pain and suffering	35,000
4	Food and nourishment	4,000
5	Attendant charges	3,000
6	Travelling expenses	2,500
7	Loss of income during laid-up period	30,750
8	Loss of amenities including loss of marital prospects	50,000
Total		4,58,724

16. Thus, the claimant is entitled to total compensation of Rs.4,58,724/- as against Rs.4,65,474/- awarded by the Tribunal. The rate of interest at 6% per annum from the date of petition till realization, as awarded by the Tribunal, is confirmed.

17. Accordingly, this court proceeds to pass the following:

ORDER

- i) The appeal is allowed in part.
- ii) The Judgment and Award dated 09.07.2019 passed in MVC No.636/2018 is modified.
- iii) The claimant is entitled to total compensation of Rs.4,58,724/- as against Rs.4,65,474/- awarded by the Tribunal with interest at 6% per annum from the date of petition till realization.
- iv) The appellant–Corporation is directed to deposit the modified compensation amount, after adjusting the amount already deposited, within

six weeks from the date of receipt of a copy of this judgment.

- v) The amount in deposit, if any, before this court shall be transmitted to the Tribunal forthwith.
- vi) On such deposit, the amount shall be disbursed in terms of the order passed by the Tribunal.
- vii) There shall be no order as to costs.

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

MBS,CT:VP