

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU****DATED THIS THE 24TH DAY OF AUGUST, 2026****PRESENT****HON'BLE MR. JUSTICE JAYANT BANERJI****AND****HON'BLE MS. JUSTICE TARA VITASTA GANJU****MISCELLANEOUS FIRST APPEAL NO.1206 OF 2022 (MV-D)****BETWEEN:**

1. SARASWATHI.K
W/O LATE SANTHOSH,
D/O KUMARA,
AGED ABOUT 21 YEARS,
R/AT 102/1, 1STBLOCK,
BAICHANAHALLI, KUSHALNAGAR,
SOMVARPET TALUK – 571 234.
2. PUTTALAKSHMI
W/O RAMESH,
AGED ABOUT 46 YEARS,
3. RAMESH
S/O VENKATARAMEGOWDA,
AGED ABOUT 50 YEARS,
BOTH ARE R/AT
DODDANERALE VILLAGE,
CHIKKANERALE POST,
HARANAHALLI HOBLI,
PERIYAPATNA TALUK – 571 102.

...APPELLANTS

(BY SMT. SUMA. K, ADVOCATE)

AND:

1. THE DIVISIONAL CONTROLLER,
K.S.R.T.C.,

Digitally signed by
SUMATHY
KANNAN
Location: HIGH
COURT OF
KARNATAKA



MYSURU RURAL DIVISION,
BANNIMANTAP,
MYSURU - 570 015.

...RESPONDENT

(BY SRI. VIJAYA KUMAR.D, ADVOCATE)

THIS MFA FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 29.11.2021 PASSED IN MVC NO.1187/2018 ON THE FILE OF THE PRL. JUDGE, COURT OF SMALL CAUSES AS A PRESIDING OFFICER, MACT, MYSURU AND ENHANCE THE COMPENSATION AND GRANT JUST AND FAIR COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeal seeks to challenge the judgment and award dated 29.11.2021, in MVC No.1187/2018, passed by the Principal Judge, Court of Small Causes as a Presiding Officer, MACT, Mysuru, (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded Rs.15,71,500/- along with



interest at 6% per annum from the date of the petition till its realisation.

2. The challenge in the present case has been made by the appellants/claimants.

3. Although the matter was listed for Admission, with the consent of the parties, the matter is taken up for hearing and final disposal at this stage, given the limited issue involved.

4. The brief facts of the case are that on 22.06.2018 at about 5.50 p.m., the deceased Santhosh was commuting on a motorcycle bearing registration No.KA-45 W-1068. At that time, a driver of a KSRTC bus bearing registration No.KA-09 F-3249, stated to be driven at a high speed, and in a rash and negligent manner, came across the road and hit the motorcycle. Due to the accident, the deceased fell down from his motorcycle and sustained grievous injuries. He was immediately taken to the Government Hospital at



Periyapatna where the Doctors declared him dead at about 06.45 p.m.

4.1 A claim petition under Section 166 of the Motor Vehicles Act (hereinafter referred to as the 'MV Act'), was filed by the wife and parents of the deceased. It was stated that they have spent substantial amounts on the deceased and that the deceased was earning Rs.700/- per day to maintain his family.

5. The claim petition was contested by the respondent/KSRTC. They denied the accident, as well as their liability to make any payment.

6. Based on the pleadings filed by the parties, the following issues were framed by the learned Tribunal:

"i) Whether the petitioners prove that on 22.06.2018 at about 5.50 p.m., near Ragi Aaladamara Gate / Cross, when the deceased was proceeding on Motor Cycle bearing registration No.KA-45-W1068, at that time the driver of K.S.R.T.C., Bus bearing registration No.KA-09-F-3249 drove the same from cross road in rash and negligent manner and hit the Motor Cycle and caused accident and due to the impact, the husband of petitioner



No.1, son of petitioner No.2 and 3 by name Santhosh succumbed to injuries as shown in the petition?

ii) Whether the petitioners are entitled for compensation? If so, how much and from whom?

iii) What Order or award?"

7. The appellants/petitioners examined the wife of the deceased as PW1. The two other witnesses namely, PW2 who was stated to be the employer of the deceased was examined and one Srinivasa who is an eyewitness, was examined as PW3. 11 documents were marked by the appellants/petitioners which included an FIR (Exhibit-P1), Spot Panchanama (Exhibit-P3), IMV report (Exhibit-P5), Inquest Panchanama (Exhibit-P6) and the charge-sheet (Exhibit-P8). In addition, the post-mortem report and the family survival certificate were also marked as Exhibits-P7 and P9 respectively.

7.1 On behalf of respondent/KSRTC, the Conductor of the offending vehicle was examined as RW-1. No evidence



other than one photograph was produced, which was marked as Exhibit-R1.

8. The learned Tribunal after examining the evidence placed before it found that the driver of the KSRTC bus came from across the road and took a sudden right turn to the wrong side, hitting the motorcycle and causing the accident. In addition, it was also held that the deceased sustained grievous injuries as a result of the accident. In addition, the learned Tribunal also took into account the evidence of the eyewitness, PW3, who also deposed that the accident was caused by rash and negligent act of the driver of the respondent KSRTC bus. Thus, since there was no other evidence placed on record by the KSRTC, the learned Tribunal found that the issue of rash and negligent driving to be proved.

9. The learned Tribunal on awarding compensation found that although PW2 deposed that the deceased was earning Rs.700/- per day, there was no document to show



that he was earning such amounts nor was any other evidence produced in this regard. Thus, the learned Tribunal accordingly fixed the income of the deceased at Rs.7,000/- per month and awarded compensation for loss of dependency in the following manner:

$$(Rs.7,000 + 40\%) = Rs.9,800 - \frac{1}{3} \times 18 \times 12 = Rs.14,11,128/-$$

10. In addition, amounts were awarded towards loss of consortium, loss of estate, transportation and funeral expenses, in the following manner:

Heads	Amount in Rs.
Compensation towards loss of consortium	1,20,000/-
Towards Loss of Estate	15,000/-
Towards transportation and funeral expenses	25,000/-
Towards loss of dependency	14,11,500/-
Total	15,71,500/-



10.1 Thus, a sum of Rs.15,71,500/- was awarded to the appellants/petitioner along with interest at the rate of 6% per annum.

11. As stated above, the only challenge raised by the appellants/claimants in the present appeal is on the aspect of the income being taken wrongly by the learned Tribunal. The learned counsel for the appellants/claimants submits that the deceased was earning Rs.700/- per day. Thus, she submits that the income of the deceased should have thus been taken at Rs.21,000/- per month. In addition, it is contended by the learned counsel for the appellants that even otherwise, the notional income for the year 2018, which is the year of the accident, was Rs.12,500/-. Thus, the income at Rs.7,000/- per month could not have been taken by the learned Tribunal to assess the loss of dependency.

12. The learned counsel for the respondent/KSRTC on the other hand, does not dispute the fact that the notional



income for the year 2018 was Rs.12,500/-, however, he submits that so far as concerns the contention that the loss of dependency should be taken at the income of Rs.700/- per day, the same cannot be taken into consideration. He further submits that there was no proof whatsoever was placed on record, to show the earning of the deceased as Rs.700/- per day.

13. It is not disputed by either party that there is no document placed on record showing proof of income of the deceased at Rs.700/- per day. The evidence also does not give any clue as to what job/avocation the deceased was doing at the time of his death.

14. In these circumstances, it would be apposite to take the notional income for the year 2018, at Rs.12,500/- per month, since the deceased was aged 25 years as on the date of the accident 40% is added towards loss of future prospects, and also deducting $\frac{1}{3}^{\text{rd}}$ towards personal



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expenses, applying the appropriate multiplier as '18', the loss of dependency is recalculated as follows:

$$\begin{aligned} & (\text{Rs.}12,500 + 40\%) = \text{Rs.}17,500 - 5,833(1/3^{\text{rd}}) \\ & = \text{Rs.}11,667 \times 18 \times 12 = \text{Rs.}25,20,072/- \end{aligned}$$

15. Further, in view of the law laid down by the Supreme Court in the ***Pranay Sethi*** case, loss of consortium is payable at Rs.40,000/- to three appellants, amounting to **Rs.1,20,000/-** with escalation of 20%. The appellants/claimants are also entitled to compensation under the conventional heads. Accordingly, **loss of estate** and **funeral expenses** are awarded at Rs.15,000/- each with escalation of 20%.

16. In view of the foregoing discussions, the compensation awarded by the learned Tribunal requires to be recalculated in the following terms:

Sl.No.	Particulars	Amount (Rs.)
1	Loss of Dependency (Rs.12,500 + 40%) – 1/3 rd x 18 x 12	25,20,072/-
2	Loss of Consortium (Rs.40,000 x 3) + 20%	1,44,000/-



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3	Loss of Estate (Rs.15,000 + 20%)	18,000/-
4	Funeral Expenses (Rs.15,000 + 20%)	18,000/-
	Total	27,00,072/-
	Less : Awarded by the Tribunal	15,71,500/-
	Enhanced Compensation	11,28,572/-

17. Hence, the appellants/claimants are entitled to a sum of Rs.27,00,072/- along with interest at 6% per annum as awarded by the learned Tribunal, from the date of petition till its realization.

18. Accordingly, this Court proceeds to pass the following:

ORDER

(i) The appeal is ***allowed in part;***

(ii) The Judgment and Award dated 29.11.2021, in MVC No.1187/2018, passed by the Principal Judge, Court of Small Causes as a Presiding Officer, MACT, Mysuru, is modified, enhancing the compensation by **Rs.27,00,072/-** along with interest at the rate of 6% per annum as awarded by the learned Tribunal from the



date of petition till realization; after deducting the amount already paid to the appellants/claimants as interim compensation.

(iii) The remaining portion of the Impugned Award of the Tribunal remains undisturbed;

(iv) The respondent/KSRTC is directed to pay the enhanced compensation with interest as awarded by the Tribunal within eight weeks from today; after deducting the amount already paid to the appellants/claimants;

(v) On such deposit of compensation, the same shall be released in favour of the appellants/ claimants, after deducting the amount already paid to the appellants/claimants as interim compensation, on filing of an appropriate application for withdrawal of the enhanced amount;

(vi) The Registry is directed to draw the modified Award accordingly;

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(vii) The Registry is directed transmit a copy of this judgment to the concerned Tribunal, along with its records, and the amounts in deposit, if any, by the Insurance Company;

(viii) No order as to costs.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

JJ

List No.: 1 Sl No.: 5