

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO. 737 OF 2024 (MV-D)

BETWEEN:

THE MANAGING DIRECTOR
B.M.T.C
DOUBLE ROAD
SHANTHI NAGAR
BENGALURU-560 027
REPRESENTED BY CHIEF LAW OFFICER

...APPELLANT

(BY SRI. D. VIJAYAKUMAR, ADVOCATE)

AND:

1. SRI. LEELA DHAR SAINI
S/O HARMA RAM SAINI
AGED ABOUT 58 YEARS
2. SMT. PREMLATA
W/O SRI LILA DHAR SAINI
AGED ABOUT 54 YEARS

BOTH ARE RESIDING AT:
#302, VIVEN TRAILS
KATTIGENAHALLI VILLAGE
JALA HOBLI, YELAHANKA
BANGALORE-560 064

...RESPONDENTS

(BY SRI. D MANJUNATH, ADVOCATE AND
SRI. M.P. RAHUL, ADVOCATE FOR C/R1 & R2)

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 21.10.2023 PASSED IN MVC NO. 319/2022 ON THE FILE OF THE XXIII ADDITIONAL SMALL CAUSES JUDGE, MOTOR ACCIDENT CLAIMS TRIBUNAL, COURT OF SMALL CAUSES, BENGALURU (SCCH-25), AWARDED COMPENSATION OF RS.99,35,814/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL THE DATE OF DEPOSIT OF THE AWARD AMOUNT.

THIS APPEAL HAVING BEEN RESERVED FOR JUDGMENT ON 23.06.2026 COMING ON FOR PRONOUNCEMENT THIS DAY, **RAJESH RAI K, J.**, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE RAJESH RAI K

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE RAJESH RAI K)

This appeal is preferred by the appellant – BMTC, challenging the judgment and award dated 21.10.2023 passed in MVC No.319/2022 by the XXIII Judge of Court of Small Causes Court and member MACT Bengaluru (SCCH-25), whereby the claim petition filed by the respondent-claimants came to be allowed and compensation of Rs.99,35,814/- with interest at 6% per annum from the date of petition till realization was awarded in favour of the claimants.

2. For the sake of convenience, the parties shall be referred to according to their ranking before the Tribunal.

3. The brief facts relevant for the disposal of the appeal are that, on 30.12.2021 at about 7.45 p.m., the deceased, Shashikant Saini, was proceeding on his scooter bearing Registration No.KA-04-HW-9327 on Yelahanka Main Road from Yelahanka Circle towards B.B. Road. When he reached near the Railway Under Bridge, Santhe Circle, Yelahanka, a BMTC bus bearing Registration No.KA-53-F-0028, came from behind and dashed against the scooter. Due to the impact, the deceased fell on the road and came under the wheels of the bus, sustaining grievous injuries and succumbed to the same at the spot.

4. Upon appreciation of the oral and documentary evidence available on record, the Tribunal allowed the petition and awarded compensation of Rs.99,35,814/- together with interest at 6% per annum. Aggrieved by the said judgment and award, the respondent-BMTC has preferred the present appeal.

5. Heard the learned counsel Sri D. Vijaykumar appearing for the appellant-BMTC and the learned counsel Sri D. Manjunath and Sri M.P. Rahul appearing for respondent Nos.1 and 2.

6. Apart from urging various contentions, the learned counsel for the appellant-BMTC primarily contended that the Tribunal has committed a serious error in holding that the driver of the BMTC bus was solely responsible for the accident in question. It was submitted that the driver of the BMTC bus was proceeding slowly and cautiously on the left side of the road while travelling from Hampi Nagar towards Yelahanka.

7. According to the learned counsel, when the bus reached near Yelahanka Police Station, the deceased, who was riding the motorcycle, came from behind at a high speed in a rash and negligent manner. It was further contended that while attempting to overtake the bus from the left side, the deceased failed to notice a manhole situated on the left side of the road. Consequently, the motorcycle passed over the manhole, causing the deceased to lose control over the vehicle. As a result, he fell towards the right side and came under the left rear wheel of the BMTC bus, sustaining grievous head injuries to which he later succumbed. It was submitted that this aspect is established by the evidence of RW.1, the driver of the bus, and RW.2, the Assistant Traffic Inspector, BMTC, Bengaluru. Both the witnesses have categorically deposed that the accident occurred due to the negligence of the deceased rider.

8. Placing reliance on Ex.R1, the copy of the spot sketch, and Ex.R2 consisting of four photographs along with a compact disc, the learned counsel contended that the material on record clearly demonstrates the existence of a manhole on the road at a distance of about six feet behind the place of accident. The learned counsel further submitted that the Tribunal failed to properly appreciate the evidence of RW.1 and RW.2 in conjunction with Exs.R1 and R2 and erroneously ignored the material evidence indicating that the accident occurred solely on account of the negligence of the deceased and not due to any rash or negligent driving on the part of the driver of the BMTC bus.

9. Without prejudice to the above contentions, it was further argued that the Tribunal has also erred in awarding compensation under different heads, including assessment of the income of the deceased based on the evidence of PWs.1 and 2 and documents marked as Exs.P12 to P21. It was contended that the employer of the deceased had paid a sum of Rs.24,43,833/- under a group insurance policy for which the premium had been paid by the company and not by the deceased. Therefore, the said amount ought to have been deducted from the total compensation awarded. It was

submitted that without considering the said aspect, the Tribunal erroneously assessed the annual income of the deceased at Rs.8,20,884/-. It was also contended that excessive compensation has been awarded under other conventional heads. On these grounds, the learned counsel sought for allowing the appeal.

10. *Per contra*, the learned counsel appearing for the respondent-claimants, placing reliance on the evidence of PW.1 and PW.2, submitted that the Tribunal, upon proper appreciation of the oral and documentary evidence, has rightly concluded that the accident occurred due to the rash and negligent driving of the driver of the BMTC bus. The learned counsel referring to Ex.P5, the IMV Report, contended that the said report records that no fresh visible damage was found on the BMTC bus, whereas damage was noticed to the right side body and rear wheel brake lever of the scooter. It was submitted that the nature of damage reflected in Ex.P5 indicates that the bus had not collided with the scooter from behind. It was therefore contended that the IMV Report, read along with the other material on record, establishes that the accident did not occur due to a rear-end collision caused by the BMTC bus. Consequently, the Tribunal was justified in holding

that the accident was attributable to the rash and negligent driving of the driver of the BMTC bus.

11. The learned counsel further contended that the Tribunal, after carefully scrutinising the oral and documentary evidence on record, has passed a well-reasoned judgment and award, which does not warrant interference by this Court. It was submitted that the evidence of PWs.1 and 2 and the investigation papers marked as Exs.P1 to P6 and Ex.P8 clearly establish that the accident occurred due to the rash and negligent driving of the offending BMTC bus. Referring to Ex.P3-sketch, it was contended that the bus was proceeding from Yelahanka towards Bengaluru behind the scooter of the deceased and that the driver suddenly turned the bus towards the right side and came into contact with the rear portion of the scooter, causing the scooter to fall. As a result, the deceased was thrown off the scooter, fell under the bus and the rear wheel of the bus ran over him. According to the learned counsel, this aspect stands clearly established through the police investigation.

12. It was further contended that Ex.R1, the rough sketch, cannot be relied upon since it was prepared by the

BMTC authorities and not by the Investigating Officer. The learned counsel also submitted that the photographs relied upon by the appellant reveal that barricades had been placed on the left side of the road and that the deceased was travelling on the extreme left side when the bus came from behind and dashed against the scooter. It was further pointed out that RW.1, the driver of the bus, admitted in his evidence that he had noticed the deceased riding the scooter from a distance of about 300 metres. In such circumstances, it is evident that the scooter was travelling ahead of the bus. Therefore, the Tribunal was justified in concluding that the accident occurred due to the rash and negligent driving of the driver of the BMTC bus.

13. The learned counsel also contended that in view of the judgment of the Hon'ble Apex Court in **MANAGING DIRECTOR VS. CHANDRAMOULI**, (Civil Appeal Nos.5490-5491 of 2025), the benefits received under a group insurance policy cannot be deducted from the compensation awarded under the Motor Vehicles Act. On these submissions, he sought dismissal of the appeal.

14. Having heard the learned counsel for both parties and upon perusal of the material on record, the points that arises for our consideration in the appeal is:

i. Whether the Tribunal was justified in holding that the accident resulting in the death of Shashikant Saini was caused due to the rash and negligent driving of the driver of the BMTC bus bearing Registration No.KA-53-F-0028?

ii. Whether the Tribunal was justified in awarding compensation of Rs.99,35,814/-?

15. As could be gathered from records, the occurrence of the accident and the involvement of the BMTC bus in the accident are not in dispute. The principal contention urged by the appellant-BMTC is that the accident occurred due to the negligent riding of the motorcycle by the deceased at the relevant point of time.

16. We have carefully examined the FIR, complaint, spot mahazar, sketch, IMV report and charge-sheet marked as Exs.P1 to P8. Admittedly, the complaint as per Ex.P2 was lodged by one Monika Saini, the sister of the deceased, against

the driver of the BMTC bus. Pursuant thereto, the FIR came to be registered against the driver of the BMTC bus. Subsequently, after investigation, a charge-sheet was also laid against the driver of the BMTC bus.

Though the learned counsel for the appellant contended that RW.1, the driver of the BMTC bus, had approached the jurisdictional police with a complaint against the deceased and that the police failed to receive the same, we find no merit in the said contention. The appellant has failed to place any material on record or examine any witness to substantiate the said assertion. Be that as it may, even after conducting investigation, the police have filed the charge-sheet only against the driver of the BMTC bus.

17. A careful examination of Ex.P3-sketch and Ex.P4-spot mahazar discloses that the deceased was riding the scooter from Hampi Nagar, Bengaluru towards Yelahanka on the extreme left side of the road. The BMTC bus was proceeding in the same direction and the driver of the bus suddenly turned the vehicle slightly towards the left side, as a result of which the bus came into contact with the rear portion of the scooter and the accident occurred. In such

circumstances, as rightly contended by the learned counsel for the respondents, it can reasonably be inferred that due to the impact caused by the bus hitting the rear portion of the scooter, the deceased was thrown off the scooter and fell beneath the bus, whereupon the rear wheel of the bus ran over him.

18. The said aspect is also reflected in the spot mahazar. Further, the sketch reveals that the road at the place of occurrence is a two-way road and barricades have been installed on both sides. The accident occurred on the extreme left side of one lane.

19. The learned counsel for the appellant contended that as per the sketch prepared by RW.2, the Assistant Traffic Inspector, Accident Section, BMTC, the accident occurred in the middle of the road and that there existed a drainage/manhole at a distance of about 50 to 60 feet behind the place of accident. According to him, while attempting to overtake the bus, the deceased driven the scooter over the drainage/manhole, lost control, fell towards the right side and came under the left rear wheel of the bus, sustaining fatal head injuries. However, the said contention cannot be accepted. A

perusal of Ex.R1, the rough sketch prepared by RW.2, clearly indicates that there is a distance of about 50 to 60 feet between the alleged drainage/manhole and the place of accident. There are no marks or indications on the road suggesting that the bus came into contact with the scooter at the location of the drainage/manhole and thereafter dragged the scooter up to the place of accident. Further, according to Ex.R1, the accident occurred almost in the middle of the road, whereas Ex.P3, the sketch prepared by the traffic police, depicts that the accident occurred on the extreme left side of the road. In these circumstances, the defence put forth by the appellant-BMTC does not hold any water.

20. Further, in the course of cross-examination, RW.1- the driver of BMTC bus, categorically admitted that he had noticed the deceased riding the scooter from a distance of about 300 metres after crossing the signal and that the road was straight. In such circumstances, it can safely be inferred that the scooter was travelling ahead of the BMTC bus and that the bus came into contact with the rear portion of the scooter. As a consequence, the deceased was thrown off the scooter, fell under the bus and the rear wheel passed over him. Admittedly, when the bus was proceeding behind the scooter, it

was duty casted upon the driver of the bus to drive the vehicle cautiously while observing the movements of the scooter travelling ahead, particularly on a straight road. Therefore, we are of the considered view that the accident occurred solely due to the rash and negligent driving of the driver of the BMTC bus.

21. Accordingly, the finding of negligence recorded against the driver of the BMTC bus and the consequent fastening of liability upon BMTC to pay compensation do not call for interference.

22. Insofar as the compensation awarded by the Tribunal under various heads is concerned, having regard to the age and avocation of the deceased, we are of the view that the Tribunal has rightly assessed the income and loss of dependency at Rs.98,15,814/-. The Tribunal is also justified in awarding compensation under the heads of loss of consortium and loss of estate. Thus, the total compensation of Rs.99,35,814/- together with interest at 6% per annum is just and proper.

23. We find no valid or justifiable ground to interfere with the compensation awarded by the Tribunal. Accordingly,

the points framed for consideration are answered against the appellant. Accordingly, the appeal stands ***dismissed***.

**SD/-
(S.G.PANDIT)
JUDGE**

**SD/-
(RAJESH RAI K)
JUDGE**

PKS/K