



CNR: KAHC010040352025

NC: 2026:KHC:45547
MFA No. 580 of 2025
C/W MFA No. 944 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 580 OF 2025 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 944 OF 2025 (MV-D)

IN MFA No. 580/2025

BETWEEN:

THE MANAGING DIRECTOR
BMTC DIVISION, K.H. ROAD,
SHANTHI NAGAR,
BANGALORE - 560 027,
(RC OWNER OF OFFENDING VEHICLE BMTC BUS
BEARING NO.KA-57-F-2839)
REP. BY ITS CHIEF LAW OFFICER

...APPELLANT

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI

Location: HIGH
COURT OF
KARNATAKA

(BY SRI. DABALI FAKKIRAPPA SHIDRAMAPPA, ADVOCATE)

AND:

1. JAI RAM
S/O KESU PAWAR,
AGED 47 YEARS,
2. PARVATHI PAWAR
W/O JAIRAM,
AGED 39 YEARS,

RESPONDENT NOS.1 AND 2 ARE
R/AT NO.284, GUTTARAGI LT @ POST,
BHANTANUR, ALEML HOBLI,
VIJAYAPURA DISTRICT - 586 123.



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3. SWATHI J.
D/O JAIRAM,
AGED 22 YEARS,
4. CHANNAKESHA
S/O JAIRAM,
AGED 19 YEARS,

RESPONDENT NOS.3 AND 4 ARE
R/AT NO.633, 2ND CROSS,
ADAKAMARANAHALLI VILLAGE,
MAKALI POST, BENGALURU NORTH,
BENGALURU DISTRICT - 562 123.

...RESPONDENTS

(BY SRI. NAIK KRISHNA VENKATRAMAN, ADVOCATE)

THIS MFA IS FILED U/S.173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 20.11.2024 PASSED IN MVC
NO.3930/2023 ON THE FILE OF THE CHIEF JUDGE, COURT OF
SMALL CAUSE, AND MEMBER, PRINCIPAL MOTOR ACCIDENT
CLAIMS TRIBUNAL, BENGALURU, AWARDING COMPENSATION
OF RS. 14,00,500/- WITH CURRENT AND FUTURE INTEREST AT
6 PERCENT P.A.

IN MFA NO. 944/2025

BETWEEN:

1. JAI RAM
S/O KESU PAWAR,
AGED ABOUT 47 YEARS,
2. PARVATHI PAWAR
W/O JAIRAM,



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AGED ABOUT 39 YEARS,

3. SWATHI J.
D/O JAIRAM,
AGED ABOUT 22 YEARS,
4. CHANNAKESHA
S/O JAIRAM,
AGED ABOUT 19 YEARS,

PETITIONER NOS.1 AND 2 ARE
R/AT NO.284, GUTTARAGI LT @ POST,
BHANTANUR, ALMEL HOBLI,
VIJAYAPURA DISTRICT - 586 123.

PETITIONER NOS.3 AND 4 ARE
R/AT NO.633, 2ND CROSS,
ADAKAMARANAHALLI VILLAGE,
MAKALI POST, BENGALURU NORTH,
BENGALURU DISTRICT - 562 123.

...APPELLANTS

(BY SRI. NAIK KRISHNA VENKATRAMAN, ADVOCATE)

AND:

THE MANAGING DIRECTOR
BMTC DIVISION, K.H. ROAD,
SHANTHINAGAR,
BENGALURU - 560 027,
(RC OWNER OF OFFENDING VEHICLE
BMTC BUS REGISTRATION NO.KA-57-F-2839).

...RESPONDENT

(BY SRI. DABALI FAKKIRAPPA SHIDRAMAPPA, ADVOCATE)

THIS MFA IS FILED U/S.173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 20.11.2024 PASSED IN MVC



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NO.3930/2023 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSE, AND MEMBER, PRINCIPAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THESE APPEALS COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

Miscellaneous First Appeal No.580/2025 is filed by the BMTC (for short 'Corporation') challenging the Judgment and Award dated 20.11.2024 passed in MVC No.3930/2023.

2. Miscellaneous First Appeal No.944/2025 is filed by the claimants seeking enhancement of compensation and also challenging the contributory negligence attributed to the deceased at 50% in the Judgment and Award dated 20.11.2024 passed in MVC No.3930/2023 by the Chief



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Judge, Court of Small Causes and Member, Principal
MACT, Bengaluru.

3. The appellants/claimants made a claim petition seeking for award of compensation for the death of Harish J., in a road traffic accident occurred on 16.05.2023 contending that the accident occurred due to rash and negligent driving by the driver of BMTC Bus bearing registration No.KA-57-F-2839.

4. The Tribunal recorded the evidence adduced by the parties and upon appreciating the evidence on record, assessed the compensation and awarded the compensation under various heads as under:

Sl. No.	Particulars	Amount
1.	Loss of dependency	Rs. 25,92,000/-
2.	Loss of estate	Rs. 16,500/-
3.	Funeral expenses	Rs. 16,500/-
4.	Loss of consortium to petitioners No.1 to 4 at Rs.44,000/- each	Rs. 1,76,000/-
	Total	Rs. 28,01,000/-



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5. The Tribunal has held that the deceased has also contributed to the accident to the extent of 50% and deducted 50% of the compensation and awarded Rs.14,00,500/- with interest at the rate of 6% per annum from the date of petition till realisation and directed the Corporation to pay the compensation awarded with interest.

6. The Corporation challenged the said finding of the Tribunal regarding contributory negligence attributed to the deceased only to the extent of 50% and also challenged the compensation awarded.

7. The claimants have also filed the appeal challenging the contributory negligence attributed to the deceased and also seeking enhancement of compensation awarded by the Tribunal.

8. Heard the learned counsel for Corporation and learned counsel for the claimants.



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9. Learned counsel for the Corporation would contend that, the accident occurred due to the sole negligence on the part of the deceased and therefore the Corporation is not liable to pay any compensation to the deceased. Ex.P12 - Sketch of the spot clearly indicates that the accident occurred on the left side of the road and Ex.P13 - Motor Vehicle Inspector's report indicates that the damage has caused on the right side of the Bus. P.W.2 has not been cited in the charge sheet as eyewitness, but he has been cited as a inquest Mahazar witness, but he has deposed before the Tribunal as a eyewitness to the accident. In the entire charge sheet, there are no eyewitnesses. The accident took place at night time. Considering these aspects, the entire negligence is on the part of the deceased. He further submits that, the Tribunal has taken future prospects at 50%. The deceased was not having any fixed income and therefore the future prospects has to be taken at 40%. With these, he prayed to allow the appeal.



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10. Learned counsel for the claimants would contend that, the charge sheet has been filed against the driver of BMTC bus for offences punishable under Sections 279 and 304(A) of Indian Penal Code. Even though the charge sheet is filed against the deceased/rider of the motorcycle, i.e., only for offences punishable under Sections 177, 181 and 196 of Motor Vehicles Act and not for rash and negligent driving. i.e., for offences punishable under Sections 279 and 304(A) of Indian Penal Code.

11. R.W.1 - Driver of the Bus has stated in the cross-examination that he has not challenged the charge sheet filed against him for rash and negligent driving. Even though there is no Driving License of the deceased, he could not be held to be guilty of contributory negligence only because he is not having a Driving License. On that point, he placed reliance on the decision of the Hon'ble Apex Court in the case of **SUDHIR KUMAR RANA vs. SURINDER SINGH AND OTHERS** reported in **AIR 2008 SCW 3981**.



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12. He further submits that, the Tribunal has erred in holding that the deceased has contributed to the accident to the extent of 50%. The sole negligence is on the part of the driver of BMTC Bus and the charge sheet has been filed against him for offences punishable under Sections 279 and 304(A) of Indian Penal Code. He also submits that, the Tribunal has not taken escalation of 20%, but has taken only 10% escalation on conventional heads. With these, he prayed to allow the appeal filed by the claimants.

13. Having heard the learned counsel for the Corporation and learned counsel for the claimants, the Court has perused the impugned Judgment, Award and Trial Court records.

14. The following points raised for consideration:

- I) Whether the Tribunal is justified in attributing contributory negligence on the part of the deceased to the extent of 50%?
- II) Whether there are any grounds for enhancement of compensation?



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REASONS

15. **POINT NO.I** : The accident occurred on 16.05.2023 at about 9:30 p.m. Ex.P12 is the sketch of the spot of the accident. The accident occurred on the left side of the road on which the Bus and motorcycle of the deceased were proceeding. Ex.P13 - Motor vehicle Inspector's report indicates that there is a damage to the Bus on the right side. Ex.P15 is the charge sheet and it is filed against the driver of BMTC Bus for the offences punishable under Sections 279 and 304(A) of Indian Penal Code. Even though the charge sheet is filed against the deceased/rider of the motorcycle, i.e., only for offences punishable under Sections 177, 181 and 196 of Motor Vehicles Act and not for rash and negligent driving. i.e., for offences punishable under Sections 279 and 304(A) of Indian Penal Code.

16. R.W.1 - Driver of the Bus has stated in the cross-examination that he has not challenged the charge



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sheet filed against him for rash and negligent driving. The deceased was not having Driving License as on the date of accident. The Hon'ble Apex Court in the case of **SUDHIR KUMAR RANA** *supra*, has held that the only case when the deceased was not having license, he could not be held to be guilty of contributory negligence. Considering the said aspect of the charge sheet being filed as against the driver of the Bus, the driver of the Bus having not challenged the charge sheet filed against him, the entire negligence is on the part of the driver of the Bus. The Tribunal has erred in attributing contributory negligence of the deceased to the extent of 50%. Accordingly, **point No.I** is answered.

17. **POINT NO.II** : The deceased was aged eighteen (18) years as on the date of accident. The accident occurred on 16.05.2023. The Tribunal has taken the income of the at Rs.16,000/- per month. As per the chart prepared by the Karnataka State Legal Services Authority, the notional income fixed for the year 2023 is



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Rs.16,250/- and the said income is to be taken as against Rs.16,000/- taken by the Tribunal. The Tribunal has added 50% towards future prospects. The deceased was not having permanent job and therefore, the future prospects are to be taken at 40%. The Tribunal has rightly deducted 50% of the income of the deceased as personal expenses since he was a Bachelor and rightly applied multiplier '18' since the deceased was aged eighteen '18' years. In view of the same, loss of dependency is calculated as under:

$$\text{Rs.16,250/-} + 40\% (\text{Rs.6,500/-}) = \text{Rs.22,750/-} - 50\% = \text{Rs.11,375/-} \times 12 \times 18 = \text{Rs.24,57,000/-}$$

18. The Tribunal has awarded compensation under conventional heads, but only added 10% escalation. The accident occurred in the year 2023 i.e., after six (06) years of the decision of Hon'ble Apex Court in the case of **NATIONAL INSURANCE COMPANY vs. PRANAY SETHI AND OTHERS** reported in **AIR 2017 SC 5157** and therefore, escalation at 20% is to be added on conventional heads. Therefore, the claimants are entitled



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to loss of consortium in a sum of Rs.1,92,000/- (Rs.48,000/- X 4), loss of estate in a sum of Rs.18,000/- and funeral expenses and transportation of dead body in a sum of Rs.18,000/-. Accordingly, **point No.II** is answered.

19. Considering all the above aspects, the claimants are entitled to total compensation under various heads as under:

Sl. No.	Particulars	Amount
1.	Loss of dependency	Rs. 24,57,000/-
2.	Loss of consortium	Rs. 1,92,000/-
3.	Funeral expenses and transportation of dead body	Rs. 18,000/-
4.	Loss of estate	Rs. 18,000/-
	Total	Rs. 26,85,000/-

20. The claimants are entitled to total compensation of Rs.26,85,000/- as against Rs.14,00,500/- awarded by the Tribunal with interest.

21. Consequently, the claimants are entitled to enhanced compensation of Rs.12,84,500/-



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(Rs.26,85,000/- - Rs.14,00,500/-) with interest at the rate of 6% per annum from the date of petition till realisation.

22. The Corporation is liable to pay the said enhanced compensation amount with interest.

23. In view of the above, the following:

ORDER

- i) *Both Miscellaneous First Appeals are **allowed-in-part.***
- ii) *The finding of the Tribunal regarding contributory negligence attributed to the deceased at 50% is **set-aside.***
- iii) *The appellants/claimants are entitled to enhanced compensation of Rs.12,84,500/- with interest at the rate of 6% per annum from the date of petition till realisation.*
- iv) *The corporation shall deposit the enhanced compensation amount with interest before the Tribunal within a period of six weeks from this day.*



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- v) *The appellants/claimants are entitled to release of entire enhanced compensation with interest as per their share as determined by the Tribunal.*
- vi) *The amount deposited by the Corporation is ordered to be transmitted to the Tribunal.*

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

KLV
List No.: 1 Sl No.: 12