



CNR: KAHC010156712021

NC: 2026:KHC:45837
MFA No. 2182 of 2021
C/W MFA No. 1745 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.2182 OF 2021 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.1745 OF 2021 (MV-I)

IN MFA No. 2182/2021

BETWEEN:

SMT. K. S. SOWMYA
W/O GOPALIAH,
AGED ABOUT 31 YEARS,
R/AT NO.378,
HANUMANTHANAGARA LAYOUT,
NELAMANGALA,
BENGALURU RURAL DISTRICT - 562 123.

...APPELLANT

(BY SRI.RAGHU R., ADVOCATE)

AND:

THE MANAGING DIRECTOR
KSRTC, K.H.ROAD,
SHANTHINAGAR,
BENGALURU - 560 027.

...RESPONDENT

(BY SMT.S.NIRMMALA, ADVOCATE)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DT.22.12.2020 PASSED IN MVC

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Location: HIGH
COURT OF
KARNATAKA



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NO.2753/2019 ON THE FILE OF THE VIII ADDITIONAL JUDGE
AND ACMM, MEMBER, MACT, BENGALURU, (SCCH-5).

IN MFA NO. 1745/2021

BETWEEN:

THE MANAGING DIRECTOR,
KSRTC, SHANTHINAGAR,
K.H.ROAD, BANGALORE,
NOW REP. BY KARNATKA STATE
ROAD TRANSPORT CORPORATION,
CENTRAL OFFICE, BANGALORE,
BY ITS CHIEF LAW OFFICER, BANGALORE.
...APPELLANT

(BY SMT. S NIRMMALA, ADVOCATE)

AND:

K.S.SOWMYA,
W/O GOPALIAH,
AGED 31 YEARS, NO.378,
HANUMANTHANAGARA LAYOUT,
NELAMANGALA,
BANGALORE RURAL DISTRICT-562 123.
...RESPONDENT

(BY SRI. RAGHU R., ADVOCATE)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 22.12.2020 PASSED
IN MVC NO.2753/2019 ON THE FILE OF THE VIII
ADDITIONAL JUDGE AND ACMM AND MEMBER-MACT,
BENGALURU (SCCH-5).

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



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CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

These two appeals arise out of the judgment and award dated 22.12.2020 passed in MVC No.2753/2019 by the M.A.C.T. at Bengaluru, (hereinafter referred to as 'the Tribunal'), whereby the Tribunal, partly allowed the claim petition, filed by the claimant and awarded compensation of Rs.5,55,000/- with 9% interest.

2. The brief facts which are necessary for disposal of these appeals are that, on 15.04.2019 at about 02.00 p.m., the claimant, K.S. Sowmya, was proceeding as a pillion rider on a two-wheeler bearing Reg.No.KA-04-JN-2900, which was being ridden by one Gopalaiah, proceeding from Bengaluru towards Nelamangala on Bengaluru-Tumakuru Road, NH-48. When they reached Arishinakunte, the rider of the motorcycle took the vehicle from the express road towards the service road. At that time, there was a traffic jam on the road. As a result, the claimant got down from the vehicle. When the vehicles started moving, she attempted to sit back on



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the motorcycle. At that juncture, she fell down on the road. At the same time, the driver of the KSRTC bus bearing Reg.No.KA-09-F-5203, which was proceeding behind the scooter, drove the bus in a rash and negligent manner and dashed against the claimant. Due to the impact, the claimant sustained injuries all over her body. Immediately thereafter, she was shifted to Jayaprasad Hospital, Nelamangala, where she was given first-aid treatment, and subsequently, she was shifted to Sparsh Hospital, Bengaluru, for further treatment. Thereafter, the claimant filed a claim petition seeking compensation for the injuries sustained by her in the said accident.

3. The Tribunal upon assessment of oral and documentary evidence, partly allowed the claim petition and awarded the compensation as stated supra. The said judgment is challenged by KSRTC as well as the claimant. KSRTC has preferred MFA No.1745/2021 disputing the liability and quantum of compensation, whereas, the claimant has preferred MFA No.2182/2021 seeking enhancement of quantum of compensation.

4. Heard the learned counsel for the respective parties.



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5. Apart from urging several contentions, the learned counsel appearing for the KSRTC primarily contended that the Tribunal grossly erred in fastening the entire negligence on the driver of the KSRTC bus. According to her, the claimant herself had equally contributed to the occurrence of the accident. It was contended that, when there was a traffic jam, the claimant got down from the two wheeler and, when the movement of the vehicles commenced, she suddenly attempted to sit back on the motorcycle. In the said circumstances, she fell down on the road, and the KSRTC bus, which was standing behind the two-wheeler, moved forward, at that juncture the hind tyre of the bus ran over her hand and legs. Therefore, it was argued that there was absolutely no rashness or negligence on the part of the driver of the KSRTC bus. Apart from this, the learned counsel contended that the Tribunal was not justified in assessing the permanent disability of the claimant at 18%. Though PW-2, the Doctor who treated the injured claimant, specifically deposed that the claimant had suffered 16% disability in respect of the upper limb and 12% disability in respect of the lower limb, totaling 28%, the Tribunal ought to



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have considered one-third of the said disability for the purpose of assessing functional disability, which would come to 9.3% and could be rounded off to 10%. On these two grounds, she prays to allow the appeal filed by the KSRTC by dismissing the appeal filed by the claimant.

6. *Per contra*, learned counsel appearing for the claimant contended that the Tribunal was justified in fastening the entire negligence on the driver of the KSRTC bus. Admittedly, at the place of the accident, there was a heavy traffic jam. In such circumstances, the driver of the KSRTC bus suddenly moved the vehicle in a rash and negligent manner and dashed against the injured claimant while she was making an attempt to sit on the two-wheeler. He further contended that, pursuant to the accident, the Police registered an FIR against the driver of the KSRTC bus and, after investigation, filed a charge-sheet against him. Further, in his cross-examination, the driver of the KSRTC bus categorically stated that the bus was moved forward after the accident and that he saw the injured claimant lying about 10 feet behind the bus through the right-side mirror of the bus. In such circumstances, he contended that the Tribunal was



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justified in fastening the entire negligence on the driver of the KSRTC bus. He also contended that PW-2, the Doctor who treated the injured claimant, deposed in his evidence that the claimant had suffered 48% disability to the lower limb and 35% disability to the arm. In such circumstances, the Tribunal was justified in assessing the permanent disability of the claimant at 18%. Accordingly, he prays to dismissal of the appeal filed by the KSRTC by allowing the appeal filed by the claimant.

7. I have given my anxious consideration both on the submission and perused the entire evidence on record.

8. As could be gathered from the records, the occurrence of the accident dated 15.04.2019 and the involvement of the two-wheeler and the KSRTC bus in the said accident are not in dispute. Immediately after the accident, a complaint was lodged by one Gopalaiah, who is the husband of the injured claimant and the rider of the two-wheeler on which the injured was proceeding as a pillion rider. Based on the said complaint, the jurisdictional Police registered an FIR against the driver of the KSRTC bus. Thereafter, the Police conducted investigation and filed a charge-sheet against the driver of the



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bus. Though the driver of the bus was examined before the Tribunal as RW-1, he admitted in his evidence that, after a lapse of two days, he lodged a complaint before the Police Station alleging that the accident had occurred due to the negligence of the injured claimant. However, he has not offered any explanation for the said delay in lodging the complaint. Further, the sketch prepared by the Police and produced at Ex.P-4 also depicts that the accident occurred due to the negligent driving of the KSRTC bus, particularly at a place where there was heavy traffic congestion. Moreover, the admission of RW-1 in his cross-examination that, after the accident, the bus moved forward and that he saw the injured claimant through the mirror of the bus clearly indicates that the bus was driven in a negligent manner. In such circumstances, in my considered view, the Tribunal was justified in fastening the entire negligence on the driver of the KSRTC bus. Accordingly, the first contention urged by the learned counsel for the KSRTC that the injured claimant had also contributed to the occurrence of the accident does not hold much value.



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9. Insofar as the second contention of the learned counsel for the KSRTC that the Tribunal erred in assessing the disability of the injured claimant at 18% is concerned, on careful perusal of the evidence of PW-2, the Doctor, it is evident that he assessed the disability in respect of the upper limb at 16% and the disability in respect of the lower limb at 12%. Thus, the total physical disability assessed by the Doctor comes to 28%. When there is specific evidence of PW-2, the Doctor, that the claimant had sustained a total disability of 28% in respect of both the limbs, the Tribunal ought to have considered one-third of the said disability for the purpose of assessing the whole-body disability, which would come to 9.3%, rounded off to 10%. However, the Tribunal assessed the disability at 18% without there being any supporting evidence to justify such assessment. Moreover, on perusal of the photographs of the injured claimant, it is evident that the fractures have united and, therefore, the assessment of functional disability at 18% does not appear to be justified. In such circumstances, I am of the considered view that the



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disability assessed by the Tribunal requires reassessment and the same is accordingly reduced to **10%** instead of 18%.

10. Since there is no credible documentary evidence to ascertain the actual monthly income, the Tribunal has rightly determined the monthly income, notionally at Rs.14,000/- as determined by Karnataka State Legal Services Authority, which, for the accident of the year 2019.

11. As the claimant was aged 29 years, a multiplier of '17' would have to be applied. Consequently, the claimant would be entitled to a sum of **Rs.2,85,600/-** (Rs.14,000 x 12 x 17 x 10%) towards '*loss of future income*'.

12. The Tribunal has not awarded any amount towards '*loss of income during the laid up period*'. Having regard to the injuries suffered and the treatment taken by the claimant, it would be just and appropriate to award a sum of **Rs.42,000/-** (Rs.14,000 X 3) considering the laid up period as three months.

13. The sums awarded under other heads of compensation granted by the Tribunal, remains unaltered.



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14. Consequently, the award of the Tribunal is modified and the claimant would be entitled to the following compensation:

Sl. No.	Compensation under different Heads	As awarded by the Tribunal (Rs.)	As awarded by this Court (Rs.)
1.	Towards treatment, hospitalization, medicines, transportation	53,000	53,000
2.	Food, nourishment and miscellaneous expenditure	10,000	10,000
3.	Loss of earnings during period of treatment	-	42,000
4.	Loss of future earnings on account of permanent disability	3,67,000	2,85,600
5.	Future medical expenses	25,000	25,000
6.	Pain and sufferings	75,000	75,000
7.	Loss of amenities	25,000	25,000
	Total	5,55,000	5,15,600

15. Thus, the claimant is held entitled to the total compensation of **Rs.5,15,600/-** as against Rs.5,55,000/-.



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16. The Tribunal has erred while awarding interest to the compensation. As per the law laid down by Division Bench of this Court in MFA No.5896/2018 the rate of interest to be awarded shall be 6%. Hence the same is reduced to 6% as against 9% awarded by the Tribunal.

17. The KSRTC is directed to deposit the amount of compensation awarded within six weeks from the date of receipt of certified copy of this judgment.

Accordingly both the appeals are ***disposed off.***

Excess amount if any deposited by the KSRTC shall be refunded through RTGS to the KSRTC.

Amount in deposit if any shall be transmitted to the Tribunal.

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

GPG
List No.: 1 Sl No.: 1