



CNR: KAHC010215162017

NC: 2026:KHC:39967-DB
MFA No. 867 of 2017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JULY, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 867 OF 2017 (MV-D)

BETWEEN:

KARNATAKA STATE ROAD
TRANSPORT CORPORATION
MANDYA DIVISION, MANDYA,
BY ITS DIVISIONAL CONTROLLER,
REP. BY ITS CHIEF LAW OFFICER

...APPELLANT

(BY SMT.RENUKA H R., ADVOCATE)

AND:

1. DHIVYA PAUL,
W/O. LATE. ROBBIN P.D,
AGED ABOUT 34 YEARS,
2. ANGEL MARIA ROBBIN (MINOR),
D/O. LATE. ROBBIN P.D,
AGED ABOUT 04 YEARS,
3. ROMIYO RIBBIN (MINOR),
S/O. LATE. ROBBIN P.D,
AGED ABOUT 03 YEARS,

(RESPONDENTS NO.2 & 3 ARE MINORS,
REP. BY THEIR NATURAL GUARDIAN
AND MOTHER RESPONDENT NO.1)

RESPONDENTS NO.1 TO 3 ARE
R/O. KUNNAKATTA HOUSE,
MANVAYAL GUDALLUR,

Digitally
signed by K S
RENUKAMBA
Location:
High Court of
Karnataka



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SRIMADURAI
NEELAGIRI DISTRICT-643 211.
TAMIL NADU.

4. A.T.DEASIA,
AGED ABOUT 84 YEARS,
5. ALEYAMMA,
W/O. A.T.DEVASIA,
AGED ABOUT 79 YEARS,

RESPONDENTS NO.4 AND 5 ARE
R/O PULLUKALAYIL HOUSE,
KURAVLANGAD,
KUVAVILANGAD POST,
KOTTAYAM DISTRICT-686 633,
KERALA STATE.

...RESPONDENTS

(BY SRI.H.B.CHANDRASHEKAR ADVOCATE FOR R1, R4 & R5;
R2 & R3 ARE MINORS REP. BY R1)

THIS MFA FILED U/S 173(1) OF MV ACT, AGAINST THE JUDGMENT
AND AWARD DATED 27.10.2016 PASSED IN MVC NO.1254/2015 ON
THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE, MACT,
SRIRANGAPATNA, AWARDED COMPENSATION OF RS.49,13,000/-
WITH INTEREST @ 9% P.A. FROM THE DATE OF PETITION TILL
DEPOSIT.

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

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



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ORAL JUDGMENT

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

1. This appeal has been filed by the Karnataka State Road Transport Corporation (hereinafter referred to as the 'KSRTC') seeking to challenge the award dated 27.10.2016 passed by the Principal Senior Civil Judge & MACT, Srirangapatna (hereinafter referred to as the 'Tribunal'). By the Impugned Award, the learned Tribunal has awarded compensation to the respondents/claimants in a sum of Rs.49,13,000/- along with interest at the rate of 9% per annum from the date of filing of the petition till the date of deposit of the compensation.

2. Briefly the facts of the case are that on 18.08.2015 at 4.45 p.m., on Mysuru-Bengaluru Highway before Amruthmahal Hotel, Srirangapatna Town, when the deceased Robbin P.D. was walking on the left side of the road, the driver of the offending KSRTC Bus bearing No. KA.11.F.0134 being stated to be driven in a rash and negligent manner, hit the deceased. As a result, the



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deceased sustained grievous head injuries and he succumbed to his injuries on the spot.

3. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'M.V.Act' for short) was filed by the parents, wife, minor daughter and the minor son of the deceased by claiming compensation of Rs.67,50,000/-. It was averred that at the time of the accident, the deceased was aged 38 years and was working as MRI and CT Scan Technician in Aryavart Medical Service Private Limited, Gorakhpur and was getting salary of Rs.25,000/- per month. As the whole family was depending upon the income of the deceased, due to untimely death of the deceased, it has caused loss of dependency to the claimants and has also resulted in loss of consortium and also love and affection. They also claimed that they have spent Rs.50,000/- towards Transportation of Dead Body of the deceased and also spent a sum of Rs.2,00,000/- to perform the last rites of the deceased. It was also alleged that as a result of



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untimely death of the deceased-P.D.Robbin, the claimants, especially claimants No.2 & 3, the minor children of the deceased have also lost the valuable guidance of their father. It was also alleged that the accident has occurred due to the rash and negligent driving of the said offending KSRTC bus.

3.1. The claim petition was contested by the appellant/KSRTC through an Advocate by filing a statement of objection. It was contended by the learned counsel for the appellant/KSRTC that the accident in question had occurred due to the negligence of the deceased, who has negligently attempted to cross the road and came across the KSRTC Bus, which was entering the bus-stand, and thereby he contributed to occurrence of accident in question. The appellant/KSRTC has also disputed the age, occupation and monthly income of the deceased and also disputed the legal heirs of the deceased.



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4. Based on the pleadings of the parties, the following issues were framed by the learned Tribunal:

- "(i) Whether the petitioners prove that on 18.08.2015 at about 4-45 p.m., on Mysore-Bangalore road, before Amruth Mahal Hotel, Srirangapatna town, when deceased P.D. Robbin was walking on the left side of the road, at that moment a driver of KSRTC bus bearing Reg. No.KA.11.F.0134 has driven the same from the side of Mysore towards Srirangapatna at high speed in a rash and negligent manner and dashed the bus to P.D. Robbin, as a result of which, he has sustained grievous head injuries and succumbed to the injuries on the spot?*
- (ii) Whether the respondent proves that the accident has occurred due to contributory negligence of the deceased?*
- (iii) Whether the respondent proves that this tribunal has no territorial jurisdiction to try the petition?*
- (iv) Whether the petitioners are entitle for compensation? If so, how much and from whom?*
- (v) What decree or award?"*

5. The claimant No.1/wife-Smt.Dhivya Paul of the deceased was examined as PW.1 and also one eye-witness by name Sri. Pradeepan was examined as PW.2. During the course of evidence, 15 documents were produced as per Exhibits P1 to P15 including Ex.P1 (FIR), Ex.P3 (spot mahazar), Ex.P4 (sketch), Ex.P5 (Accident Motor Vehicles Inspection report), Ex.P6 (Inquest Report), Ex.P7 (Post



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Mortem Report), Ex.P8 (Charge Sheet), Ex.P9 (Salary Certificate), Ex.P10 (Ledger Account Extract of Deceased), Ex.P11 (Certificate of Marriage), Exs.P12 & 13 (Birth Certificates of Minor Children of the deceased). In addition, the Aadhaar Card and Diploma Certificate of the Deceased were marked as Exs.P14 and 15.

5.1 On behalf of the appellant/KSRTC, the driver of the offending KSRTC Bus J.Ravi was examined as RW.1 who produced the Interim compensation payment receipt as Ex.R1.

6. After examining the details and the evidence produced, the learned Tribunal, based on the FIR (Ex.P1), complaint (Ex.P2), spot mahazar (Ex.P3), sketch (Ex.P4), and Inspection report (Ex.P5), found that the deceased had succumbed to injuries caused by the driver of the offending KSRTC Bus. It was also held that negligence of the driver of the said offending bus stood proved. In addition, the learned Tribunal relied on Ex.P9/Salary Certificate of the deceased showing that, as on the date of



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the accident in question the deceased was drawing the salary of Rs.25,000/- p.m., and calculated the loss of dependency by giving 50% increase towards future prospects, at Rs.37,500/- p.m. and, which would work out to Rs.4,50,000/- per annum (37,500x12).

6.1. After deduction of Income tax of Rs.20,000/- for the year 2015-16 on the annual income of the deceased, the Tribunal considered the annual income of the deceased at Rs.4,30,000/- and proceeded to reduce 1/4th of the income towards personal expenses of the deceased, to determine the loss of dependency at Rs.3,22,500/- per annum. Based on the Judgment of the Supreme Court in **Sarla Verma vs. Delhi Transport Corporation**,¹ and applying '15' as the multiplier, the Tribunal calculated loss of dependency at Rs.48,37,500/- and rounded off the same to Rs.48,38,000/-.

7. In addition to the above, the learned Tribunal has awarded a sum of Rs.1,00,000/- towards loss of love,

¹ (2009) 6 SCC 121



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affection, estate and consortium and also Rs.25,000/- towards funeral expenses of the deceased. The learned Tribunal also deducted Rs.50,000/- paid by the appellant/KSRTC as an interim compensation at the time of accident to the family of the deceased and thereby awarded a total compensation of Rs.49,13,000/- as under:-

Sl. No.	Particulars	Amount (Rs.)
1	Loss of dependency	48,38,000/-
2	Loss of love & affection & consortium	1,00,000/-
3	Funeral expenses	25,000/-
	Total	49,63,000/-
	Less: paid	50,000/-
	TOTAL	49,13,600/-

8. The learned Tribunal thus awarded a sum of Rs.49,13,000/- along with interest at 9% per annum from the date of the petition till the date of deposit of the compensation.

9. The challenge in the present appeal by the Appellant/KSRTC is on only one ground. It is submitted



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that no future prospects were awarded by the learned Tribunal.

10. The learned counsel for the appellant/KSRTC contends that the award under the head of future prospects in terms of the judgments of the Supreme Court in the cases of ***Sarla Verma*** and ***National Insurance Co. Ltd. Vs. Pranay Sethi***² should have been at 40% and not 50%, since the deceased was not under permanent employment.

11. The learned counsel for the respondents/claimants, on the other hand contends that the award amount does not suffer from any infirmity.

12. Having regard to the above contention, the issue that arises for our determination is, *whether the future prospects should have been awarded at 40% or 50%?*

13. The Supreme Court in the case of ***Pranay Sethi*** case has held that, where the party is under permanent

² (2017) 16 SCC 680



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employment and below the age of 40 years, the future prospects should be taken at 50%. However, in case of self-employment, the future prospects would be taken at 40%. The relevant extract is as below:-

"57. Having bestowed our anxious consideration, we are disposed to think when we accept the principle of standardisation, there is really no rationale not to apply the said principle to the self-employed or a person who is on a fixed salary. To follow the doctrine of actual income at the time of death and not to add any amount with regard to future prospects to the income for the purpose of determination of multiplicand would be unjust. The determination of income while computing compensation has to include future prospects so that the method will come within the ambit and sweep of just compensation as postulated under Section 168 of the Act. In case of a deceased who had held a permanent job with inbuilt grant of annual increment, there is an acceptable certainty. But to state that the legal representatives of a deceased who was on a fixed salary would not be entitled to the benefit of future prospects for the purpose of computation of compensation would be inapposite. It is because the criterion of distinction between the two in that event would be certainty on the one hand and staticness on the other. One may perceive that the comparative measure is certainty on the one hand and uncertainty on the other but such a perception is fallacious. It is because the price rise does affect a self-employed person; and that apart there is always an incessant effort to enhance one's income for sustenance. The purchasing capacity of a salaried person on permanent job when increases because of grant of increments and pay revision or for some other change in service conditions, there is always a competing attitude in the private sector to enhance the



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salary to get better efficiency from the employees. Similarly, a person who is self-employed is bound to garner his resources and raise his charges/fees so that he can live with same facilities. To have the perception that he is likely to remain static and his income to remain stagnant is contrary to the fundamental concept of human attitude which always intends to live with dynamism and move and change with the time. **Though it may seem appropriate that there cannot be certainty in addition of future prospects to the existing income unlike in the case of a person having a permanent job, yet the said perception does not really deserve acceptance.** We are inclined to think that there can be some degree of difference as regards the percentage that is meant for or applied to in respect of the legal representatives who claim on behalf of the deceased who had a permanent job than a person who is self-employed or on a fixed salary. But not to apply the principle of standardisation on the foundation of perceived lack of certainty would tantamount to remaining oblivious to the marrows of ground reality. And, therefore, degree-test is imperative. Unless the degree-test is applied and left to the parties to adduce evidence to establish, it would be unfair and inequitable. The degree-test has to have the inbuilt concept of percentage. **Taking into consideration the cumulative factors, namely, passage of time, the changing society, escalation of price, the change in price index, the human attitude to follow a particular pattern of life, etc., an addition of 40% of the established income of the deceased towards future prospects and where the deceased was below 40 years an addition of 25% where the deceased was between the age of 40 to 50 years would be reasonable.**

58. The controversy does not end here. The question still remains whether there should be no addition where the age of the deceased is more than 50 years. Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC



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(Cri) 1002] thinks it appropriate not to add any amount and the same has been approved in Reshma Kumari [Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65 : (2013) 4 SCC (Civ) 191 : (2013) 3 SCC (Cri) 826] . Judicial notice can be taken of the fact that salary does not remain the same. **When a person is in a permanent job, there is always an enhancement due to one reason or the other. To lay down as a thumb rule that there will be no addition after 50 years will be an unacceptable concept. We are disposed to think, there should be an addition of 15% if the deceased is between the age of 50 to 60 years and there should be no addition thereafter. Similarly, in case of self-employed or person on fixed salary, the addition should be 10% between the age of 50 to 60 years. The aforesaid yardstick has been fixed so that there can be consistency in the approach by the tribunals and the courts.**

XXX

XXX

XXX

59.3 while determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual less tax."

[Emphasis Supplied]

14. Undisputedly, the future prospects were calculated by the Tribunal is at 50%. The deceased was aged 39 years at the date of his death and working as an MRI/CT Technician at Aryavart Medical Services Pvt. Ltd.,



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Gorakhpur. The certificate shows that he was employed regularly for a period slightly over a year. But as stated above, according to the judgment of the Supreme Court in ***Pranay Sethi*** (case), the future prospects should be taken at 40%. Thus, the compensation under the head of future prospects is required to be modified accordingly. The calculation is as under:-

$\text{Rs. } 25,000 \times 40\% = 10,000 + 25,000 = 35,000/-$

15. In addition, since there are 5 dependents, the loss of consortium, loss of estate and funeral expenses is required to be enhanced with 30% escalation.

16. In view of the above, the monthly income would be assessed at Rs.35,000/- pm. On this basis, by applying the multiplier of '15' and deducting $1/4^{\text{th}}$ of the said amount towards the personal expenses of the deceased, the loss of dependency would be calculated as under:



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Head	Amounts
Loss of dependency	Rs.35,000 x 12 = Rs.4,20,000 Less Tax - 20,000 = Rs.4,00,000 Rs.4,00,000 x 1/4 =Rs.1,00,000 Rs.4,00,000-Rs.1,00,000=3,00,000 Rs.3,00,000x'15' = Rs.45,00,000

17. In view of the above, the amount under the head of loss of dependency would be Rs.**45,00,000/-**. Further, the consortium at the rate of Rs.40,000/- each for 5 dependents with 30% escalation works out to Rs.2,60,000/-, the calculation of which is as under:

$$\text{Rs.40,000} \times 5 = 2,00,000 + 30\% = 2,60,000/-$$

18. As per the judgment of the Supreme Court in the **Pranay Sethi** case, the respondents/claimants are entitled to compensation of Rs.15,000/- on the head of **loss of estate** and Rs.15,000/- for **funeral expenses and transportation** each with escalation at 30%. To this extent, the award of the Tribunal requires to be re-calculated in the following terms:



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Sl. No.	Particulars	Amount (Rs.)
01	Loss of Future Prospects	45,00,000
02	Loss of Consortium	2,60,000
03	Transportation of Dead Body & Funeral Expenses (Rs.15,000/- + 30%)	19,500
04	Loss of estate (Rs.15,000/- + 30%)	19,500
	Total	47,99,000
	Less: paid as interim compensation by the Corporation	50,000
	Total compensation	47,49,000

19. Hence, the Appellant/KSRTC is entitled pay total compensation of **Rs.47,49,000/-** instead of **Rs.49,13,000/-** along with interest as awarded by the learned Tribunal, from the date of petition till its realisation. Accordingly, this Court proceeds to pass the following:

ORDER

- (i) The appeal is ***allowed in part;***
- (ii) The judgment and award dated 27.10.2016 in M.V.C.No.1254/2015 passed by the Principal Senior Civil Judge & MACT, Srirangapatna, is modified, reducing the compensation from



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Rs.49,13,000/- to **Rs.47,49,000/-** along with interest at the rate of 9% per annum as awarded by the learned Tribunal from the date of petition till realization.

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

(iv) The Appellant/KSRTC is directed to pay the entire compensation with interest as awarded by the Tribunal within eight weeks from today.

(v) On such deposit of compensation, the same shall be released in favour of the respondents/claimants on filing of an appropriate application for withdrawal of the amount in the proportion as was set out in the Impugned Award.

(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 and the trial Court records to the concerned Tribunal.

(viii) The statutory deposit and amount in deposit before this Court shall be transferred to the Tribunal.

(ix) Pending application(s), if any, stand closed. No order as to costs.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(TARA VITASTA GANJU)
JUDGE

KGR/YN
List No.: 1 Sl No.: 20