



NC: 2026:KHC:52391
MFA No. 1482 of 2017

CNR: KAHC010217562017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.1482 OF 2017(MV-I)

BETWEEN:

A. SURESHA
AGED ABOUT 43 YEARS,
S/O ADUVEGOWDA
@ JAVAREGOWDA,
R/AT BANDIPALYA,
MYSURU TALUK AND DISTRICT - 570 025.

...APPELLANT

(BY SRI C.MOHAN, ADVOCATE FOR
SRI P NATARAJU, ADVOCATE)

AND:

1. SURYANARAYANA MURTHY
AGED ABOUT 51 YEARS,
S/O L N GOPALACHAR,
R/AT D.NO.201, GNANA MARGA,
1ST STAGE, SIDDARTHANAGAR,
MYSURU - 570 011.
2. THE DIVISIONAL CONTROLLER
KSRTC, MYSURU DIVISION,
MYSURU - 570 001.
3. G M PRABHAKAR
MAJOR,
S/O G MAHADEVAPPA,
R/AT NO.876/8A, 1ST CROSS,
LAKSHMIPURAM,
MYSURU - 570 004.
4. UNITED INDIA INSURANCE CO LTD
DIVISIONAL OFFICE NO.II,

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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OPP: SUBURB BUS STAND,
BENGALURU-NILIGIRI ROAD,
MYSURU - 570 004,
REP BY ITS MANAGER.

...RESPONDENTS

[BY SMT. HR RENUKA, ADVOCATE FOR R2;
SRI S.SRISHAILA, ADVOCATE FOR R4;
V/C/O DATED 19.01.2024 NOTICE TO R2 IS D/W;
V/C/O DATED 06.06.2025 NOTICE TO R3 IS D/W]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 21/07/2016 PASSED IN MVC NO.77/1999 ON THE FILE OF THE III ADDITIONAL CIVIL JUDGE (SENIOR DIVISION) AND M.A.C.T., MYSORE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL IS COMING ON FOR *ADMISSION*, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 21.07.2016 passed by III Addl.Civil Judge (Sr.Dn.) & MACT, Mysuru, in MVC no.77/1999, this appeal is filed.

2. Sri C Mohan, learned counsel appearing for Sri P Nagaraj, advocate for appellant submitted that appeal was by claimant seeking enhancement of compensation as well as assailing finding of Tribunal on negligence/liability.



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3. Brief facts leading to this appeal as stated are that, at 10.55 p.m. on 22.10.1996, when claimant was driving Auto-rickshaw carrying passengers from Bogadi towards Gangotri, Mysuru in Auto no.KA-09-4454, driver of KSRTC Bus no.KA-09-F-1471 drove it in rash and negligent manner and it dashed against auto. In accident, claimant sustained grievous injuries and despite treatment at KR Hospital, Mysuru for 35 days, he did not recover fully. Alleging loss of earning capacity, he filed claim petition under Section 166 of Motor Vehicles Act, 1988 (**MVA**) against driver of Bus, KSRTC, owner and insurer of Auto-rickshaw.

4. On appearance, wherein claim petition was opposed on all grounds including contributory negligence, lack of driving licence and claim being exorbitant, Tribunal framed following issues:

"1. Whether petitioner proves that on 22.10.1996 at about 10.55 p.m. near All India Institute of Speech and Hearing Bridge, he was carrying on the passengers from Bogadi to Gangotri in the Auto bearing No.KA-09-4454 belonged to 3rd respondent, at that time the driver of the K.S.R.T.C. bus bearing No.KA-09-F-1471 driven the same in a rash and negligent manner and dashed against the petitioner's auto, as such the petitioner sustained fracture injuries?"



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2. Whether petitioner further proves that he is entitled for compensation? If so, to what amount and from whom?

3. Whether the 4th respondent proves that the petitioner was not having valid driving license at the time of the accident?

4. What order or award?"

5. In trial, claimant examined three witnesses including himself, Dr.Kiran Kalaya and another as PWs.1 to 3 and got marked Exhibits P1 to P11. Respondents examined driver of Bus as RW.1, but did not mark any documents.

6. On consideration, Tribunal answered issues no.1 and 2 partly in affirmative, issue no.3 in negative and issue no.4 by partly allowing petition holding that accident had occurred due to contributory negligence of claimant to extent of 50%. After assessing total compensation of Rs.1,56,800/-, held KSRTC liable to pay 50% and held claimant entitled for only 50% of same with interest at 6% p.a. from date of petition till its realization. Dissatisfied with said finding, this appeal was filed.

7. It was firstly submitted that claimant was auto driver, aged 25 years old, earning more than Rs.3,000/- per



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month. Tribunal was not justified in taking his monthly income at only Rs.3,000/-. Claimant sustained fracture of right femur and nasal bone. Under above circumstances, Tribunal was not justified in awarding only Rs.10,000/- towards pain and suffering. It was submitted that PWs.2-3, who had examined claimant, assessed disability at 30% to affected limb and 10% to whole body. Considering occupation, Tribunal was not justified in assessing same at only 10%. On said grounds, sought enhancement.

8. It was also submitted claimant took in-patient treatment for a period of 35 days. Therefore, award of Rs.3,000/- only towards food, nourishment and other incidental expenses was inadequate. Even award of Rs.10,000/- only towards loss of amenities was on lower side and sought enhancement. Learned counsel sought to assail finding of Tribunal on negligence by referring to accident spot sketch.

9. On other hand, Smt.HR Renuka, learned counsel for respondent-KSRTC and Sri S Srishaila, learned counsel for respondent no.1 opposed appeal.



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10. On liability and negligence, it was submitted that Ex.P4 - spot sketch would clearly indicate that auto driver had come on wrong side and caused accident and therefore, challenge on said grounds would be untenable.

11. On quantum, it was submitted that Tribunal had assessed and awarded compensation under separate heads and same did not call for enhancement.

12. Heard learned counsel, perused impugned judgment and award and record.

13. From above and since claimant is in appeal challenging finding on negligence, liability as well as quantum of compensation, points arise for consideration are:

- i) *Whether finding of Tribunal on negligence and liability calls for modification?*
- (ii) *Whether claimant is entitled for enhancement of compensation as prayed?*

Reg. Point no.1:

14. In order to establish negligence against respondents, claimant relied on FIR, Mahazar, Accident Spot



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Sketch, Motor Vehicle Inspectors Report and certified copy of judgment in CC no.987/1998.

15. Prosecution records indicate that based on a complaint by driver of Bus, claimant was implicated for causing accident by negligence. Though Ex.P6 would indicate acquittal of claimant, Ex.P4 indicates that accident occurred on an East-West 5 metres wide road with KSRTC bus proceeding from East to West and accident spot is at a distance of 1.5 metres from southern edge of road and collision was head-on. Spot sketch would indicate that auto had crossed midline and was on wrong side at accident spot. Though there is a cross road at spot. Under circumstances there would be no scope for fastening entire negligence and liability on driver of KSRTC. Besides, claimant did not produce his driving licence. Therefore, there are no good or sufficient grounds to modify finding on negligence and liability. Point no.1 is answered in *negative*.

Reg. Point no.2:

16. On quantum, there is no dispute that claimant was 25 years old auto driver sustained fracture of right femur and



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nasal bone assessed by PW.2 to have caused limb disability at 30%. As rightly submitted, one of fracture sustained by claimant is to a structural bone and other would be an additional fracture. Fracture of structural bone is noted to be in three parts. Considering same, it is found appropriate to award **Rs.40,000/-** towards fracture of structural bone and **Rs.10,000/-** for additional bone i.e. totalling to **Rs.50,000/-** towards pain and suffering. Tribunal has awarded **Rs.45,000/-** towards medical and conveyance charges against bills for Rs.40,000/-. Since there is complete reimbursement of medical expenses, there would be no scope for modification. Tribunal has awarded Rs.24,000/- towards loss of income during laid-up period by taking 8 months as a period of lay-off, which is not challenged. Claimant has taken in-patient treatment for a period of 35 days. Since compensation towards conveyance has been tagged along with medical expenses, Rs.3,000/- is awarded towards food and nourishment and attendant charges would be grossly inadequate and found appropriate to enhance it to **Rs.10,000/-**. Tribunal has considered loss of earning capacity by taking monthly income of claimant at Rs.3,000/- and awarded Rs.64,800/- by applying correct multiplier.



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Considering date of accident and fact that Tribunal has taken monthly income as claimed by claimant and assessed 10% loss of earning capacity against 30% disability assessed to limb, assessment towards future loss of income appears just and proper. Hence, there is no enhancement. However, award of Rs.10,000/- towards loss of amenities, when claimant is aged 25 years and sustained physical disability would not be justified. It is found appropriate to enhance it to **Rs.25,000/-**. Thus, claimant is held entitled for total compensation of **Rs.2,18,000/-** (Rs.45,000 + Rs.24,000 + Rs.10,000 + Rs.50,000 + Rs.64,800 + Rs.25,000). Thus, there is enhancement by **Rs.62,000/-**. Point no.2 is answered accordingly.

17. In view of above, following

ORDER

- (i) Appeal is ***allowed in part***;
- (ii) Claimant is held entitled for additional compensation of Rs.62,000/-. Since claimant would be entitled for 50% of same i.e. **Rs.31,000/-**.



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(iii) KSRTC is directed to deposit Rs.31,000/-
with interest at 6% from date of claim petition
within a period of 8 weeks.

(iv) On deposit, entire compensation with
interest is ordered to be released in favour of
claimant.

Sd/-
(RAVI V HOSMANI)
JUDGE

AV
List No.: 1 SI No.: 13