

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 22ND DAY OF JULY, 2026
BEFORE
THE HON'BLE MR. JUSTICE RAJESH RAI K
MISCELLANEOUS FIRST APPEAL NO.4741 OF 2020(MV-D)
C/W
MISCELLANEOUS FIRST APPEAL NO.4918 OF 2020(MV-D)

IN MFA No. 4741/2020

BETWEEN:

THE MANAGING DIRECTOR
B.M.T.C, SARIGE BHAVANA
K.H.ROAD, SHANTHI NAGAR,
BANGALORE-560 027.

...APPELLANT

(BY SRI. VIJAYA KUMAR D, ADVOCATE)

AND:

1. SRI E VIJAYA KUMARAN
S/O EUSAPPAN
AGED ABOUT 66 YEARS
2. SMT. KRISHNAVENI
W/O E. VIJAYA KUMARAN
AGED ABOUT 63 YEARS
R/AT 225, 2ND CROSS,
NAYANDAHALLI, BANGALORE -560 039

PERMANENT ADDRESS
NO.76, 4TH BEEDHI, INDIRANAGAR,
RANGENAHALLI, TARIKERE TALUK,
CHIKKAMAGALUR DISTRICT,
PIN-577 144

...RESPONDENTS

(BY SRI. GURUDEV PRASAD K.T, ADVOCATE FOR R1 & R2)

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by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.12.02.2020 PASSED IN MVC NO.1119/2019 ON THE FILE OF THE II ADDITIONAL JUDGE AND ACMM, COURT OF SMALL CAUSES, BENGALURU (SCCH-13), AWARDED COMPENSATION OF RS.12,18,000/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL THE DATE OF DEPOSIT.

IN MFA NO. 4918/2020

BETWEEN:

1. SRI. E. VIJAYA KUMARAN
S/O EUSAPPAN,
AGED ABOUT 66 YEARS,
2. SMT KRISHNAVENI
W/O SRI E VIJAYA KUMARAN,
AGED ABOUT 63 YEARS,
R/AT NO.225,
2ND CROSS, NAYANDAHALLI
BENGALURU-560 039

PERMANENT ADDRESS,
NO.76, 4TH BEEDHI,
INDIRANAGAR, RANGENAHALLI,
TARIKERE TALUK,
CHIKKAMAGALURU DISTRICT,
PIN-57714

...APPELLANTS

(BY SRI. GURUDEV PRASAD K.T, ADVOCATE)

AND:

THE MANAGING DIRECTOR
BMTCL SARIGE BHAVANA,
K H ROAD, SHANTHINAGAR,
BENGALURU-560 027

...RESPONDENT

(BY SRI. D. VIJAYAKUMAR, ADVOCATE)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 12.02.2020 PASSED IN MVC NO.1119/2019 ON THE FILE OF THE II

ADDITIONAL JUDGE AND ACMM, COURT OF SMALL CAUSES, BENGALURU (SCCH.13), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIESE APPEALS HAVING BEEN RESERVED FOR JUDGMENT ON 09.07.2026 COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

CAV JUDGMENT

These two appeals arise out of the judgment and award dated 12.02.2020 passed in MVC No.1119/2019 by the Additional Small Causes Judge and Motor Accident Claims Tribunal, Bengaluru (SCCH-13) (for short, "the Tribunal"), whereby the Tribunal has partly allowed the claim petition filed by the claimants and awarded compensation of Rs.12,18,000/- with interest at 6% per annum.

2. MFA No.4741/2020 has been preferred by the Bengaluru Metropolitan Transport Corporation (for short, "BMTTC"), assailing the quantum of compensation awarded by the Tribunal as well as the saddling of liability upon it. MFA No.4918/2020 has been preferred by the claimants seeking enhancement of the compensation awarded by the Tribunal.

3. The factual matrix of the case is that on 02.02.2019, the deceased, Vidyavelu Prathiman, was riding his motorcycle bearing registration No. KA-41-EF-2311 on Mysore Road, proceeding from Bapujinagar towards Hosaguddadahalli and when he reached in front of Bridgeway Hotel, near Satellite Signal, a BMTC bus bearing registration No. KA-57-F-2869, came behind the motorcycle and dashed against the rear portion of the motorcycle. Due to the impact, the deceased was thrown onto the road, and the left front wheel of the BMTC bus ran over his head, resulting in his instantaneous death at the spot.

4. Thereafter, the jurisdictional Police registered a case against the driver of the BMTC bus, conducted investigation, and laid the charge sheet against him. Subsequently, the legal representatives of the deceased filed a claim petition before the Tribunal. Upon appreciation of oral and documentary evidence placed on record, the Tribunal partly allowed the claim petition, as stated supra. Aggrieved by the said judgment and award, the BMTC and claimants are before this Court.

5. Heard learned counsel Sri. Vijaya Kumar. D, for the BMTC and learned counsel Sri. Gurudev Prasad K.T., for the claimants and also perused the materials available on record.

6. The learned counsel appearing for the BMTC, apart from urging several contentions, primarily contended that the Tribunal committed a grave error in fastening the liability upon the BMTC without properly appreciating the oral and documentary evidence available on record. Placing reliance on the evidence of RW.1 and Ex.R1, learned counsel contended that the material on record clearly discloses that the deceased attempted to overtake the BMTC bus from its left side, as such, came behind the bus, and lost balance on account of the uneven and unfinished white-topping road, where a hollow portion existed on the left side. It was submitted that the accident occurred solely due to the negligence of Bruhat Bengaluru Mahanagara Palike (for short, "BBMP"), in not completing the white-topping work and leaving the road in an unsafe condition. He further contended that there was absolutely no negligence on the part of the driver of the BMTC bus, as the deceased fell on the unfinished portion of the road on his own, whereafter the front wheel of the bus ran over his head. In support of the said contention, reliance was placed on

Ex.R1, being a news report published in the Bengaluru Edition of *Vijaya Karnataka* daily newspaper under the caption "ಇನ್ನೂ ಎದ್ದೇಳಿ ಮೇಯರ್", accompanied by a photograph depicting the condition of the road.

7. Learned counsel further contended that the complaint, FIR, spot sketch and charge sheet were manipulated at the instance of the claimants and BBMP. He also submitted that the Motor Vehicle Inspection Report discloses that no fresh damage was noticed on the BMTC bus, thereby probalising the defence version. Relying on the evidence of RW.1, the driver of the bus, it was argued that, in the absence of any independent eyewitness, his testimony clearly establishes that the deceased lost balance and fell due to the unfinished white-topping road and, therefore, the Tribunal ought not to have fastened liability upon the BMTC.

8. Without prejudice to the aforesaid contentions, learned counsel further submitted that the compensation awarded by the Tribunal is just and reasonable and does not warrant any enhancement. Accordingly, he prayed that the appeal preferred by the claimants be dismissed. Insofar as the appeal preferred by the BMTC is concerned, he prayed that the

impugned judgment and award be set aside and the matter be remitted to the Tribunal for fresh consideration after impleading the BBMP as a necessary party.

9. *Per contra*, learned counsel for the claimants/respondents supported the impugned judgment and award and contended that the Tribunal, upon meticulous appreciation of oral and documentary evidence, has rightly fastened the liability upon the BMTC and awarded just compensation. He submitted that immediately after the accident, the jurisdictional Police registered the FIR, as per Ex.P1, on the complaint lodged by the brother of the deceased. During the course of investigation, the Police conducted the spot mahazar and prepared the spot sketch, marked as Ex.P3. Relying on Ex.P3, he contended that the sketch clearly depicts that the accident occurred on the Mysore Road, Bengaluru, while the deceased was riding his motorcycle on the extreme left side of the road from west to east, and at that point of time, the BMTC bus suddenly moved from the right side towards the left side of the road and dashed against the rear portion of the motorcycle. It was further submitted that Ex.P1–FIR, the complaint and the evidence of PW.1 fully corroborate the contents of Ex.P3-spot sketch. Upon completion of the

investigation, the Police laid the charge sheet against the driver of the BMTC bus. In such circumstances, the contention of the BMTC that the investigation records are concocted documents is wholly untenable.

10. Learned counsel further submitted that Ex.R1 is merely a newspaper report containing a general statement, without even mentioning the place of the accident, and therefore carries no evidentiary value. He contended that the white-topping work had been completed in the year 2017, whereas the accident occurred in the year 2019. The BMTC has failed to produce any cogent evidence to establish that the white-topping work was in progress at the time and place of the accident. It was further submitted that since the BMTC bus dashed against the rear portion of the motorcycle, the driver of the bus alone was responsible for the accident and the BBMP had no role whatsoever in the occurrence of the accident.

11. He further contended that the Tribunal has awarded inadequate compensation by adopting a lower income and without properly appreciating the age and other relevant factors relating to the deceased. Accordingly, he prayed for dismissal of the appeal preferred by the BMTC and for allowing

the appeal filed by the claimants by enhancing the compensation awarded by the Tribunal.

12. I have given my anxious consideration on the submissions made by the learned counsel for the respective parties and perused the documents available on record.

13. As could be gathered from records, the occurrence of the accident is not in dispute. The primary contention urged by the learned counsel for the BMTC is that the accident occurred when the deceased attempted to overtake the bus from the left side and lost control of the motorcycle due to the unfinished white-topping work undertaken by the BBMP. However, a careful examination of the investigation records i.e., Ex.P1-FIR, Ex.P2-spot mahazar, Ex.P3-spot sketch and Ex.P8-charge sheet, does not support the said contention. The records disclose that immediately after the accident, the jurisdictional Police registered the FIR against the driver of the BMTC bus based on the complaint lodged by the brother of the deceased. The Investigating Officer thereafter visited the spot at about 5.45 p.m., conducted the spot mahazar and prepared the spot sketch. The spot sketch reveals that the accident occurred on the Mysuru road, Bengaluru, which has a central

median on the right side and a footpath on the left side, and that the point of impact was on the extreme left side of the road, adjacent to the footpath. It further depicts that the deceased was riding his motorcycle on the extreme left side when the BMTC bus moved from the right towards left side of the road and dashed against the rear portion of the motorcycle. Significantly, Ex.P3 does not indicate the existence of any hollow portion or unfinished white-topping work at the place of the accident. Though such a plea was raised, the BMTC neither examined any independent witness nor produced any material to substantiate the same. On completion of the investigation, the jurisdictional Police filed the charge sheet against the driver of the BMTC bus, attributing negligence on him.

14. In the aforesaid circumstances, merely on the basis of a newspaper report, it cannot be presumed that the accident occurred due to the unfinished white-topping work undertaken by the BBMP. A careful perusal of Ex.R1 discloses that the report neither specifies the date nor the exact place of the accident and only makes a general reference to an accident on the Mysuru road, Bengaluru. As such, Ex.R1 has no evidentiary value in establishing the defence set up by the BMTC. Even otherwise, the driver of a BMTC bus is duty bound to exercise

utmost care and caution while driving, irrespective of the condition of the road. In the present case, the material on record establishes that the BMTC bus dashed against the rear portion of the motorcycle, which clearly indicates that the driver had an unobstructed view of the movement of the motorcycle ahead. Therefore, upon an overall appreciation of the oral and documentary evidence on record, I am of the considered view that the contention of the BMTC that the accident occurred due to the negligence of the BBMP does not hold much water and is liable to be rejected and is accordingly rejected.

15. As far as the compensation awarded by the Tribunal is concerned, the Tribunal, on assessment of the evidence adduced before it, has come to the conclusion that the driver of the offending vehicle was responsible for the accident which has resulted in the death of Sri. Vidyavelu Prathiman. The Tribunal has thereafter proceeded to award the following sums as compensation:

Sl. No.	Particulars	Amount in (Rs.)
1.	Loss of dependency	11,88,000

2.	Loss of estate	15,000
3.	Transportation of dead body and funeral expenses	15,000
	Total	12,18,000

16. In order to arrive at the loss of dependency, the Tribunal has determined the monthly income, notionally at Rs.11,000/-. As there is no credible evidence to ascertain the actual monthly income, it would be appropriate and prudent to adopt the monthly income determined by Karnataka State Legal Services Authority, which, for the accident of the year 2019, would be Rs.14,000/-.

17. Since the deceased was aged 23 years, a multiplier of '18' would have to be applied and 40% requires to be added to the monthly income towards future prospects and since he was a bachelor, 50% requires to be deducted towards his personal and living expenses, which would result in the income to be Rs.9,800/- (Rs.14,000 + 40% - 50%) for the purposes of determining the loss of dependency. Consequently, the claimants would be entitled to a sum of **Rs.21,16,800/-** (Rs.9,800 X 12 X 18) towards "*loss of dependency*".

18. The claimants, being parents of the deceased, each would be entitled to a sum of **Rs.48,400/-** towards "*loss of consortium*" i.e., in all **Rs.96,800/-** and they would also be entitled to a sum of **Rs.36,300/-** under the "*conventional heads*".

19. Thus, the claimants, in modification of the impugned award, would be entitled to the following sums:

Sl. No.	Particulars	Amount (In Rs.)
1.	Loss of dependency	21,16,800
2.	Loss of consortium	96,800
3.	Conventional Heads	36,300
	Total	22,49,900

20. Accordingly, the claimants would be entitled for total compensation of **Rs.22,49,900/-** as against Rs.12,18,000/- awarded by the Tribunal, along with interest at the rate of 6% per annum from the date of petition till its realization.

21. The Insurance Company is directed to deposit the amount of compensation awarded within a period of six weeks from the date of receipt of a certified copy of this judgment.

22. The apportionment shall be in terms of the award of the Tribunal.

23. Accordingly, the appeal filed by the BMTC in MFA No.4741/2020 is ***dismissed*** and the appeal filed by the claimants in MFA No.4918/2020 is ***allowed in part***.

24. The amount, if any, deposited, shall be transmitted to the concerned Tribunal.

SD/-
(RAJESH RAI K)
JUDGE

PKS/K