



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO.7196 OF 2018(MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.7690 OF 2018(MV-D)

IN MFA No. 7196/2018

BETWEEN:

1. SMT RATHI SHEDTHI,
W/O BHOJU SHETTY,
AGED ABOUT 53 YEARS,
2. BHOJU SHETTY,
S/O KORAGAYYA SHETTY,
AGED ABOUT 61 YEARS,

BOTH ARE R/AT ARARI,
VALTHOOR, KAVARADI VILLAGE,
AND NELLIKATTE POST,
KUNDAPURA TALUK,
UDUPI DISTRICT – 526 001.

...APPELLANTS

(BY SRI. GURURAJA SHETTY K., ADVOCATE)

AND:

1. MOHANA NAGAPPA AMBIGA,
S/O NAGAPPA,
AGED ABOUT 57 YEARS,
R/O TARIBAGILU MIRZANA,
KUMATA TALUK,
UTTARA KANNADA – 581 343.

Digitally
signed by
REKHA
Location:
High Court
of Karnataka



2. DIVISIONAL CONTROLLER,
KSRTC BHATKAL DEPOT,
UTTARA KANNADA – 581 320,
REPT BY ITS
DIVISIONAL MANAGER

...RESPONDENTS

(BY SRI. F.S. DABALI., ADVOCATE FOR R2,
VIDE DATED 10.11.2022 NOTICE TO R1
DISPENSED WITH)

THIS MFA FILED UNDER SECTION 173(1) OF MV ACT
AGAINST THE JUDGMENT AND AWARD DATED:10.05.2018,
PASSED IN MVC NO.999/2016, ON THE FILE OF THE
ADDITIONAL DISTRICT JUDGE AND ADDITIONAL MACT, UDUPI
(SITTING AT KUNDAPURA), PARTLY ALLOWING THE CLAIM
PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT
OF COMPENSATION.

IN MFA NO. 7690/2018

BETWEEN:

THE MANAGER,
KSRTC BHATKAL DEPOT,
NWKSRTC, UTTARA KANNADA
NOW REP BY NORTH WESTERN,
KARNATAKA ROAD
TRANSPORT CORPORATION
CENTRAL OFFICE, HUBLI,
NOW REPRESENTED BY ITS
CHIEF LAW OFFICER
CENTRAL OFFICE HUBLI.

...APPELLANT

(BY SRI. F.S. DABALI., ADVOCATE)



AND:

1. RATHAI SHEDTHY,
AGED ABOUT 53 YEARS,
W/O BHOJU SHETTYA,
2. BHOJU SHETTY,
AGED ABOUT 61 YEARS,
S/O KORAGAYYA SHETTY,

BOTH ARE R/AT ARARI,
VALTHOOR KAVARADI VILLAGE
AND NELLIKATTE POST,
KUNDAPURA TALUK,
UDUPI DISTRICT – 576 101.

3. MOHANA NAGAPPA AMBIGA,
AGED ABOUT 57 YEARS,
S/O NAGAPPA,
R/O TARIBAGILU,
MIRZANA KUMTA TALUK,
UTTARA KANNADA DISTRICT – 576 101.

...RESPONDENTS

(BY SRI. GURURAJA SHETTY K., ADVOCATE FOR R1 & R2,
R3 SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV
ACT, AGAINST THE JUDGMENT AND AWARD
DATED:10.05.2018 PASSED IN MVC NO.999/2016 ON THE
FILE OF THE ADDITIONAL DISTRICT JUDGE, ADDITIONAL
MACT, UDUPI (SITTING AT KUNDAPURA), KUNDAPURA,
AWARDING COMPENSATION OF RS.9,88,000/- WITH
INTEREST AT 6% P.A. FROM THE DATE OF PETITION TILL
THE DATE OF PAYMENT.

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



CORAM: HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

These two appeals being, MFA No.7196/2018 by the claimants and MFA No.7690/2018 by the Manager, KSRTC¹, assailing the Judgment and award dated 10.05.2018 passed by the Addl. District Judge and Addl. Motor Accident Claims Tribunal, Udupi (sitting at Kundapura), Kundapura² in M.V.C No.999/2016.

2. The Tribunal by means of impugned Judgment and award, partly allowed the claim petition and awarded compensation of Rs.9,88,000/- with interest @ 6% per annum from the date of petition till date of payment, as against the claim of Rs.37,50,000/- for the death of Mr.Dharmaraja Shetty.

3. The parties are referred to as per their ranking before the Tribunal.

¹ hereinafter referred to as, the Corporation

² the Tribunal, for short



4. The date of accident and death of Mr.Dharmaraja Shetty are not in dispute. The dispute is with regard to quantum by the claimants and liability & quantum by the Corporation.

5. In an accident occurred on 09.05.2016 at about 2:45 pm, due to rash and negligent driving of the driver of the Bus belonging to the Corporation, one Mr.Dharmaraja Shetty who was walking on the left side of mud portion of Dinakara Desai Road of Ankola City in front of DTDC Courier service office of Ankola, Ankola Taluk, Uttara Kannada District, suffered grievous injuries all over the body and died while on the way to the hospital.

6. The claimants being the parents of deceased Dharmaraja Shetty, filed the claim petition seeking compensation of Rs.37,50,000/- along with interest @ 12% per annum from the date of accident till payment.

7. On service of notice, respondents 1 and 2 appeared through their counsel. However, only respondent



No.2 filed statement of objections and denied the entire averments made in the claim petition. The Corporation further denied the alleged mode of accident and the grievous injuries caused resulting in death of the deceased. It was contended that the petition filed by the claimants is false, frivolous and vexatious and the same is not sustainable under law or on merits. It was also contended that the compensation claimed is exorbitant, speculative in nature and without any basis. Accordingly, sought to dismiss the claim petition.

8. After completion of pleadings, the Tribunal framed following:

ISSUES

1. *Whether the petitioners prove that, they are the legal heirs of the deceased Dharmaraja Shetty and they are depending upon the income of the deceased Dharmaraja Shetty?*
2. *Whether the petitioners prove that, there was a road traffic accident took place on 09.05.2016 at about 2:45 pm, on Dinakara*



Desai Road, Ankola Shahara of Ankola Taluk due to rash and negligent driving of the driver of the KSRTC Bus bearing Regn. No.KA-31-F-1359 and as such, the deceased Dharmaraja Shetty was walking on the left side of the road and bus dashed against him and he falls down and he sustained grievous injuries and succumbed to the said injuries on 09.05.2016?

3. *Whether the petitioners are entitled for compensation? If so, what is the quantum and from whom?*
4. *What order or award?*

9. The claimants in order prove their case, examined claimant No.1 as PW.1, one Vijaya Kumar Yashavantha – complainant as PW.2 and one eye witness as PW.3 and produced 10 documents, marked as Ex.P1 to P10. On behalf of respondents, respondent No.1 was examined as RW.1 and one Traffic Controller of Moffussil



Depot-1, NWKRTC, Hubballi division as RW.2 and produced 06 documents, marked as Ex.R1 to R6 & 6(a).

10. The Tribunal upon consideration of all the pleadings as well as evidence, both oral and documentary and also the arguments advanced by the respective parties, answered Issue Nos.1 and 2 in the Affirmative i.e., with respect to relationship of the claimants with the deceased as well as rash and negligent driving of the bus by the driver of the Corporation and answered Issue No.3 on quantum of compensation, partly in the affirmative and awarded compensation of Rs.9,88,000/- with interest @ 6% per annum from the date of petition till payment. It is this Judgment and award passed by the Tribunal, is called in question in these appeals by both claimants and Corporation, only on quantum by the claimants and on liability and quantum by the Corporation.



11. Heard, Sri.Gururaj Shetty, learned counsel appearing for the claimants and Sri.F.S.Dabali, learned counsel appearing for the Corporation.

12. Sri.Gururaj Shetty, learned counsel appearing for the claimants with all vehemence submits that, the date of accident was 09.05.2016, the Tribunal has taken the income at Rs.9,000/- per month, despite the evidence i.e., Bank Statement of deceased Dharmaraja Shetty to show that he was earning Rs.18,000/- per month, as he was running shop in the name and style of 'Siddivinayaka Pan Stationeries' and also doing mobile recharging services. Learned counsel further submits that as per Ex.P10, from January 2014 to November 2016 the income of Rs.5,90,306/- was credited to the account of the deceased. Hence, the Tribunal has erred in taking the income only at the rate of Rs.9,000/- per month. Learned counsel further contended that even as per the income fixed under the chart prepared by the Karnataka State Legal Services Authority for settlement of dispute before



the Lok-Adalath, the income for the accident occurred in the year 2016 is Rs.9,500/-. Accordingly, sought to consider reasonable amount towards income of the deceased. Further, learned counsel submits that the Tribunal has failed to add future prospectus to the existing income in view of settled position of law by the Hon'ble Supreme Court. The Tribunal has also failed to award 10% escalation on compensation awarded under 'Conventional Heads' in view of settled position of law. The compensation awarded under the head 'Loss of Consortium' is on the lower side as only Rs.40,000/- is awarded and sought to enhance the compensation by dismissing the appeal filed by the Corporation.

13. In contrast, Sri.F.S.Dabali, learned counsel appearing for the Corporation with all vehemence submits that there was no accident caused on 09.05.2016 by the bus bearing Reg. No.KA-31-F-1359 at about 2:45 pm, in the alleged place of accident. He submits that as per Ex.R5 Controller Book and Ex.R6 Log Sheet, the alleged Bus has



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commenced the journey on 08.05.2016 from Bhatkal Depot at about 7:15 am, and thereafter, left Bhatkal bus stand at 7:30 am. The said bus reached its destiny at Kolhapur, Maharashtra at 19:00 hours. The said bus let Kolhapur bus stand on the next day on 09.05.2016 at 6:00 am and while plying through Belagavi, Yellapura route, reached Ankola bus stand at 14:45 hours and on board of passengers, left Ankola bus stand at 15:00 hours, so as to reach Bhatkal. Learned counsel further submits that the alleged accident occurred at 2:45 pm, and deceased died at 3:00 pm. At the time of accident, bus was never on that road at 2:45 pm.

14. Learned counsel further submits that the bus was seized by the police and Motor Vehicle Inspector has conducted inspection and submitted a report on 23.05.2016 and the complaint was filed after 14 days by one Vijay Kumar Yeshwanth Naidu and the said complainant has not stated which vehicle has hit the deceased and has stated that some unknown vehicle has



hit the deceased. The Tribunal has failed to consider these aspects of the matter and erroneously fastened liability on the Corporation. With this, he sought to exonerate the Corporation from paying liability and dismiss the claim petition filed by the claimants.

15. Having heard the rival contentions, perused both the appeal paper and also the Trial Court record. The following points would arise for consideration:

- 1) Whether the Tribunal has erred in fastening the liability on the Corporation?*
- 2) Whether the compensation awarded by the Tribunal requires interference?*

16. My answer to the above points for consideration are as under:

Point No.1: In the Negative.

Point No.2: Partly in the affirmative, for the following:



REASONS

17. **POINT NO.1**: Smt.Rathi Shedti, the mother of the deceased who was examined as PW.1, in her evidence, has deposed that the accident occurred due to rash and negligent driving on the part of the driver of the KSRTC Bus bearing Reg. No.KA-31-F-1359. PW.3 - Eye witness has supported the case of the claimants by stating that the accident occurred due to rash and negligent driving on the part of the driver of the KSRTC Bus bearing Reg. No.KA-31-F-1359. Whereas, the Traffic Controller who was examined as RW.2 has deposed that the said bus was not plying on the road in between 2:45 pm to 3:00 pm, hence the accident was not occurred by their vehicle. However, in the cross-examination, at page No.3, he has deposed as under:

“ದೂರದಿಂದ ಬರುವ ಬಸ್ಸುಗಳು ಬೇರೆ ಬೇರೆ ಕಾರಣದಿಂದ ಬಸ್ಸು ನಿಲ್ದಾಣಕ್ಕೆ ಬರುವ ಮತ್ತು ಹೋಗುವ ಸಮಯದಲ್ಲಿ ಸ್ವಲ್ಪ ಹೆಚ್ಚು ಕಡಿಮೆ ಆಗುತ್ತದೆ ಎಂದರೆ ನಿಜ. ನಿಆರ್‌5ರಲ್ಲಿರುವ ನಿಆರ್‌5 ಗೆ ಸಂಬಂಧಪಟ್ಟ ಸಮಯ 15 ಗಂಟೆ ಅಂತ ಬರೆದಿರುವುದು ಪುಟ ಆರಂಭವಾದ ದಿನಾಂಕ ಎಂದರೆ ಸರಿ. ಆ 15 ಗಂಟೆಗಳನ್ನು ದಿ:30-04-2016 ರಂದು ಬರೆಯಲಾಗಿದೆ. ಮತ್ತು ನಿಆರ್‌5 ರಲ್ಲಿ ಬಸ್ಸು ನಮ್ಮ ಅಂಕೋಲ ಬಸ್ಸು ನಿಲ್ದಾಣ, ಒಳಗಡೆ ಯಾವ ಸಮಯಕ್ಕೆ ಬಂದಿದೆ ಇಂದು ಎಂಟ್ರಿ ಆಗಿಲ್ಲ



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ಎಂದರೆ ನಿಜ. ಬಸ್ಸು ತಡವಾಗಿ ಬರಲೇ ಅಥವಾ ಬೇಗನೇ
ಬಂದರೂ ಆ 15 ಗಂಟೆಯನ್ನು ತಿದ್ದುಪಡಿ ಮಾಡಲು ಆಗುವುದಿಲ್ಲ.”

18. Thus, in the cross-examination, RW.2 has clearly admitted that, the entry in the log book was made on 30.04.2016 at 3:00 pm i.e., at the starting page of the said book. Further, the cross-examination also reveals that, on the alleged date of accident, they did not make any entry, at what time the said bus arrived at Ankola Bus Stand so also make any entry to show that, at what time the said bus has departed from Ankola Bus Stand. Thus, there is no oral or documentary evidence to show that the said bus was not plying on the said road in between 2:00 pm to 3:00 pm on the date of accident.

19. One Mr.Yogesh Venkataramana Naika, the eye witness was examined as PW.3. The relevant portion of his cross-examination is extracted as under:

“ಅಪಘಾತವಾದ ಜಾಗವು ಪೆಟ್ರೋಲ್ ಬಂಕ್‌ನ ಸ್ವಲ್ಪ ಹೊರಗಡೆ ಅಂದರೆ ಸುಮಾರು 50 ಅಡಿ ದೂರದ ಜಾಗವಾಗಿದ್ದು, ಅಪಘಾತವಾದಾಗ ಹೆಚ್ಚು ಕಡಿಮೆ ಮಧ್ಯಾಹ್ನ 2.30 ಗಂಟೆ ಆಗಿರಬಹುದು. ನನಗೆ ಓಡಾಟ ಆಗುತ್ತದೆ ಎಂದು ಹೇಳಿ ನಾನು ಆ ಬಗ್ಗೆ ಪೊಲೀಸರಿಗೆ ದೂರನ್ನು ಕೊಟ್ಟಿರುವುದಿಲ್ಲ, ಮಹಾಲಸ ಚೆನ್ನದ ಅಂಗಡಿ ಇರುವ ಕಟ್ಟಡ ಆಗಿರುತ್ತದೆ. ಅಪಘಾತವಾದ ಜಾಗದಲ್ಲಿ ಅಲ್ಲಿ ಪಕ್ಕದಲ್ಲಿ ಚರಂಡಿಯಿಂದ ಮಣ್ಣನ್ನು ಎತ್ತಿ ಹಾಕಲಾಗಿತ್ತು ಅದು



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ಕೆಲಸ ಆಗುತ್ತಿತ್ತು ಅದು ಕೂಲಿ ಕಾರ್ಮಿಕರಿಂದ ಆ ಕೆಲಸ ಮಾಡಲಾಗಿತ್ತು. ಥಾರು ರಸ್ತೆಯ ಕೊನೆಯ ಭಾಗದಲ್ಲಿ ಅಪಘಾತ ಆಗಿರುತ್ತದೆ. ಬಸ್ಸು ನಂಬ್ರ ಕೆಎ-31-ಎಫ್-1359 ರಿಂದ ಅಪಘಾತ ಆಗಿರುತ್ತದೆ. ಅಪಘಾತವಾದ ಜಾಗದಲ್ಲಿ ನಾನು ದಿನ ಅಡ್ಡಾಡುವವರಾಗಿರುತ್ತೇವೆ. ಅಪಘಾತಪಡಿಸಿದ ಆ ಬಸ್‌ನ ನಂಬ್ರವನ್ನು ನಾನು ನೋಡಿರುತ್ತೇನೆ ಮತ್ತು ಬೋರ್ಡ್ ನೋಡಲು ಆಗಲಿಲ್ಲ ನಾನು ಬಸ್‌ನ ಹಿಂಭಾಗವನ್ನು ನೋಡಿರುತ್ತೇನೆ. ಆ ಬಸ್ಸು ಎಲ್ಲಿಂದ ಎಲ್ಲಿಗೆ ಹೋಗುತ್ತಿತ್ತು ಎಂದು ನನಗೆ ಮಾಹಿತಿ ಇಲ್ಲ ಮತ್ತು ಯಾವ ಹೊತ್ತಿಗೆ ಹೋಗುತ್ತದೆ ಎಂದು ಮಾಹಿತಿ ಇಲ್ಲ. ಮತ್ತು ಆ ಬಸ್ಸು ಮಧ್ಯಾಹ್ನ 2.45ಕ್ಕೆ ಅಂಕೋಲ ಬಸ್ಸು ನಿಲ್ದಾಣದಲ್ಲಿ ನಿಂತಿತ್ತು ಎಂದರೆ ಸರಿ ಅಲ್ಲ. ಈ ಬಸ್ಸು ಚಾಲಕನ ತಪ್ಪಿನಿಂದ ಅಪಘಾತವೇ ಆಗಿಲ್ಲ ಎಂದರೆ ಸರಿ ಅಲ್ಲ. ಈ ಬಸ್ಸು ಮಧ್ಯಾಹ್ನ 3 ಗಂಟೆಗೆ ಅಂಕೋಲ ಬಸ್ಸು ನಿಲ್ದಾಣದಿಂದ ಹೊರಟಿತ್ತು ಎಂದರೆ ಸರಿ ಅಲ್ಲ. ಈ ಬಸ್‌ನಿಂದ ಅಪಘಾತವಾಗದಿದ್ದರೂ ಸಹ ನಾನು ಅರ್ಜಿದಾರರಿಗೆ ಸಹಾಯ ಮಾಡಲು ಸುಳ್ಳು ಸಾಕ್ಷ್ಯ ನುಡಿಯುತ್ತಿದ್ದೇನೆಂದರೆ ಸರಿ ಆಲ್ಲ.”

20. No contra evidence is produced by the Corporation to discredit the evidence of PW.3, the eye witness. The Tribunal having considered these aspects of the matter, in the teeth of evidence of PW.3 - Eye witness, observed that the accident had occurred due to rash and negligent driving of the KSRTC bus bearing Reg. No.KA-31-F-1359, resulting in death of Mr.Dharmaraja Shetty. The said finding of the Tribunal does not call for any interference at the hands of this Court. Accordingly, point No.1 is answered in the **Negative**. Consequently, the appeal filed by the corporation is liable to be dismissed.



21. **POINT NO.2:** So far as quantum of compensation is concerned, it is not in dispute that the accident occurred on 09.05.2016. The claimants have produced Ex.P10 Bank account to show that the deceased was earning handsome income of Rs.18,000/- per month, as from January 2014 to November 2016, his account was credited with Rs.5,90,306/-. As per the Chart prepared by the KSLSA for settlement of disputes before the Lok-Adalat, the income fixed for the accident occurred in the year 2016 is Rs.9,500/-. However, the Tribunal has considered the income at Rs.9,000/- per month. Considering the fact that the deceased was running Stationeries shop and doing mobile recharge services, so also his Bank account, this Court is of the opinion that if the income is considered at Rs.10,000/- per month, the same would meet the ends of justice.

22. Further, a perusal of the award clearly indicates that under the head 'Loss of Consortium', the Tribunal has awarded Rs.40,000/-. Admittedly, there are two claimants



and each one is entitled for compensation of Rs.40,000/- under the head 'Loss of Consortium'. In that view of the matter, the claimants are entitled for loss of consortium another sum of Rs.40,000/-. The Tribunal has also erred in not adding future prospectus to the existing income of the deceased.

23. Further, this Court finds force in the argument of learned counsel Sri.Gururaja Shetty, that the claimants are also entitled for 10% escalation on each completed 03 years since 2017, on the compensation awarded under the conventional head. In the case on hand there are two completed terms of 03 years. Accordingly, the claimants are entitled for 20% escalation of compensation awarded under Conventional heads.

24. Having considered the higher income, consortium, future prospectus, as well as escalation at 20%, the compensation awarded by the Tribunal requires reconsideration and re-assessment, which is as follows:



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Sl. No.	Heads	Compensation awarded by the Tribunal In Rs.	By this Court In Rs.
1.	Loss of Dependency	9,18,000-00	14,28,000-00 (10,000+40%x12x17x50%)
2.	Loss of Consortium	40,000-00	80,000-00
3.	Loss of estate	15,000-00	15,000-00
4.	Funeral, obsequies expenses and transportation of body	15,000-00	15,000-00
5.	10% escalation on two terms of three completed years.	-	22,000-00
	TOTAL	Rs.9,88,000-00	Rs.15,60,000-00

25. Accordingly, the claimants are entitled for reassessed compensation of **Rs.15,60,000/-**, as against Rs.9,88,000/- as awarded by the Tribunal, which shall carry interest @ 6% per annum from the date of petition till realization.

26. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

- (i) The appeal filed by the Claimants in MFA No.7196/2018 is ***allowed in part.*** The



appeal filed by the Corporation in MFA No.7690/2018 is ***dismissed***.

- (ii) The Judgment and Award dated 10.05.2018 passed by the Addl. District Judge and Addl. Motor Accident Claims Tribunal, Udupi (sitting at Kundapura), Kundapura in M.V.C No.999/2016 is modified and the compensation is reassessed.
- (iii) The amount in deposit in the Corporation's appeal shall be transmitted to the concerned Tribunal for disbursement.
- (iv) The Claimants are entitled for reassessed compensation of **Rs.15,60,000/-** with interest @ 6% per annum from the date of petition till realization.
- (v) The Corporation shall deposit the entire balance reassessed compensation along with interest supra before the concerned



Tribunal within six weeks from the date of receipt of certified copy of this order.

- (vi) Upon deposit, the disbursement and apportionment is as per the order passed by the Tribunal.
- (vii) The Trial Court Record secured if any, shall be transmitted forthwith to the concerned Tribunal.
- (viii) No order as to costs.

Sd/-
(T.M.NADAF)
JUDGE