



CNR: KAHC010254262016

NC: 2026:KHC:48152
MFA No. 4091 of 2016
C/W MFA No. 3713 of 2016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 4091 OF 2016 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 3713 OF 2016 (MV-I)

IN MFA No. 4091/2016

BETWEEN:

MR MAHESH G
S/O GOPAL
AGED ABOUT 31 YEARS
R/A NO.135, NEW MANDI
N T ROAD, OPP.SUBRAMANYA CONDIMENTS
SHIMOGA TOWN
SHIMOGA-577 201
PERMANENT ADDRESS:
R/AT C/O SRE TRAVELS
NEAR RAMESHWARA TEMPLE
CHAMARJPET, BENGALURU-560 018.

...APPELLANT

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

AND:

1. THE MANAGER,
NEW INDIA ASSURANCE CO. LTD.,
T P CLAIMS HUB, 2ND FLOOR
M G ROAD
BANGALORE-560 001.

Digitally signed
by
PADMASHREE
SHEKHAR
DESAI

Location: High
Court of
Karnataka



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2. SRI B A LINGAREDDY
S/O B ANANTHA
AGED ABOUT 56 YEARS
PROP. SRE TRAVELS
HEAD POST OFFICE ROAD
CHITRADURGA-577 501.

...RESPONDENTS

(BY SRI. GURUDEV PRASAD K.T., ADVOCATE
SRI. A.N. KRISHNA SWAMY, ADVOCATE FOR R1,
SRI. B.M. SIDDAPPA, ADVOCATE FOR R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED: 02.03.2016 PASSED IN MVC
NO.686/2015 ON THE FILE OF THE XIX ADDITIONAL SMALL
CAUSE JUDGE, MACT, BANGALORE, PARTLY ALLOWING THE
CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

IN MFA NO. 3713/2016:

BETWEEN:

NEW INDIA ASSURANCE CO. LTD.,
T P CLAIMS HUB, II FLOOR,
MG ROAD
BENGALURU-560 001
NOW REPRESENTED BY IT'S
REGIONAL MANAGER
NEW INDIA ASSURANCE CO. LTD.,
REGIONAL OFFICE 2-B,
UNITY BUILDING, ANNEXE
P.KALINGA RAO ROAD
BANGALORE-560 027.

...APPELLANT

(BY SRI. A N KRISHNA SWAMY., ADVOCATE)

AND:

1. MAHESH.G
S/O GOPAL



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NOW AGED ABOUT 31 YEARS,
R/A #135, NEW MANDI, N T ROAD
OPP: SUBRAMANYA CONDIMENTS,
SHIMOGA TOWN,
SHIMOGA-577 201
PERMANENT ADDRESS:
R/A C/O SRE TRAVELS
NEAR RAMESHWARA TEMPLE
CHAMARAJPET
BANGALURU-560 018.

2. B.A. LINGAREDDY
S/O B. ANANTHA
NOW AGED ABOUT 56 YEARS,
PROP: SRE TRAVELS
HEAD POST OFFICE ROAD
CHITRADURGA-577 501.

...RESPONDENTS

(BY SRI. K T GURUDEV PRASAD., ADVOCATE FOR R1,
SRI. B.M. SIDDAPPA, ADVOCATE FOR R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED: 02.03.2016 PASSED IN MVC
NO.686/15 ON THE FILE OF THE 19TH ADDITIONAL SMALL
CAUSE JUDGE & MACT, BENGALURU, AWARDING
COMPENSATION OF RS.2,07,160/- WITH INTEREST AT 6%
P.A. FROM THE DATE OF PETITION TILL ITS REALIZATION.

THESE APPEALS HAVING BEEN HEARD AND RESERVED
ON 12.08.2026 COMING ON FOR PRONOUNCEMENT OF
JUDGMENT THIS DAY, **P SREE SUDHA J.**, DELIVERED THE
FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA



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CAV JUDGMENT

The Motor Accident Claims Tribunal, Bengaluru passed an award dated 02.03.2016 in M.V.C. No.686 of 2015. Petitioner met with an accident on 18.09.2014 and filed claim petition claiming compensation of Rs.8,00,000/-. The Tribunal, considering the entire evidence on record, granted Rs.2,07,160/- with interest rate of 6% per annum and date of petition till realisation.

2. Aggrieved by the said award, MFA No.4091 of 2016 is filed by the petitioner-claimant for enhancement of the compensation. He stated that he was treated as inpatient from 19.09.2014 to 30.10.2014 and again from 10.12.2014 to 15.12.2014. But, the Tribunal granted meagre amounts under other heads. He was working as a cleaner cum loader in the bus and earning Rs.6,000/- per month and Rs.150/- per day as bata. But the tribunal fixed his income as Rs.6,000/- per month. It is further stated that PW4-doctor assessed the permanent disability at 13% to the whole body. But, the tribunal has taken only 9% disability. Interest is to be granted



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at the rate of 12% per annum. Thus, requested for enhancement of compensation.

3. Against the same award, MFA No.3713 of 2016 is filed by insurance company and they mainly contended as per Section 147 of the MV Act, risk of driver, conductor or ticket examiner alone is required to be covered in a public service vehicle. The insurance company issued insurance policy to a public service vehicle and no additional premium is paid to cover the risk of other employees of the insured. The insurance company relied upon the judgment of the Hon'ble Supreme Court in the case of ***Ramashray Singh Vs. New India Assurance Co. Ltd. and Others*** reported in ***2003 ACJ 1550 SC***, in which it was held that law would not require to cover the risk of a cleaner in a policy issued in respect of public service vehicle. Thus, requested the Court to exonerate the insurance company. It is further stated that no provision of law has existed to cover the risk of a cleaner in a public service vehicle and no additional premium was paid to cover the risk of the claimant herein. Even if it is presumed that he was working under respondent No.2, the liability of the insurer cannot be



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more than what is payable under the Workmen's Compensation Act or Employees' Compensation Act. The insurance company relied upon the judgment of the Apex Court in the case of ***National Insurance Co. Ltd. Vs. Premabhai Patel and Others*** reported in ***2005 ACJ 1323 SC*** and thus, requested the court to set aside the order.

4. Heard the arguments of learned counsel for both sides.

5. The manner of accident shows that, on 18.09.2014, petitioner was loading the parcel boxes on the top carriage of the private bus bearing registration No.KA-16-B-5262 in front of SRE travels near Rameshwar Temple. After loading the parcel boxes, he was spreading the tarpaulin on the parcel boxes. At that time, driver of the bus driven it in a rash and negligent manner. As a result, the petitioner fell down from the top of the bus and sustained injuries and he was shifted to the government hospital at Shimoga by the same driver. It is stated that petitioner was working as a cleaner cum loader and earning Rs.6,000/- per month. Accident occurred only due to



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the negligence of the driver of the bus owned by respondent No.2 and the bus was insured with insurance company. As such, both of them are liable to pay compensation.

6. Insurance company filed written statement and contented that petitioner colluding with police filed a false case against the insured bus. None of the inmates of the bus or driver or any other person filed complaint. It is stated that complaint was filed after 13 days on 30.09.2014. It is further stated policy does not cover the risk of cleaner cum coolie and on that ground, petition itself is not maintainable. Neither the owner nor the police intimated them about the accident and failed to furnish necessary documents. Charge sheet is filed against the bus driver by colluding with the police. Respondent No.2-owner of the bus denied that petitioner is a coolie or loader in the bus and he further stated that the vehicle is insured and policy is in force and insurance company has to indemnify him.

7. The claim of the petitioner is that he was working as a cleaner in the bus as on the date of accident. After loading the



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parcel boxes on the top of the bus bearing registration No.KA-16-B-5262, he was spreading the tarpaulin on the parcel boxes. At that time, the driver of the bus driven it in a rash and negligent manner. As a result, he fell down and sustained injuries. Later, the driver of the bus himself shifted him to the government hospital at Shimoga. It was stated that driver had not provided first aid, but joined him in a government hospital on the next day at 06.00 a.m. After two days, the petitioner took treatment in Wenlock Hospital, Mangalore. On 26.09.2014, the Doctors conducted operation to his right leg. Exhibit P3 is the statement of the injured given before the police.

8. Petitioner himself is examined as PW1 and so many witnesses were examined. PW1 in the cross examination stated that his father filed complaint and his elder brother looked after him at Shimoga and Mangalore. He is resident of Shimoga. PW2 is the Medical Record Technician. He produced MLC Extract, patient case sheet and Extract of Institute of Medical Sciences District Government Meggan Hospital, Shimoga and filed exhibit P9 authorization letter. PW3 is



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Medical Record Officer of Venlock Hospital, Mangalore and he filed authorization letter and inpatient case sheets and etc. PW4 an orthopaedic surgeon and he has stated about the injuries sustained by petitioner and assessed the disability. PW5 is the PSI traffic at Chamarajpet police station, who registered FIR and also filed charge sheet after investigation. He stated that as per reply of owner of the vehicle, one S. Guru was driving the bus at the time of the accident and he pleaded guilty in a criminal case and it was disposed of on 08.03.2015. He further stated that as per their investigation, petitioner was working as a cleaner in the said travels.

9. Respondents before the Tribunal examined the P.A. holder of respondent No.2 as RW 1 and he stated that petitioner is not working on the vehicle as a cleaner and there is no employer and employee relationship and he did not fall on the bus and not sustained any injuries. The bus bearing No.KA-16-B-5262 is the passenger vehicle and not the goods vehicle. As such, engaging any person as a loader does not arise at all. He further stated that he employed drivers as per the payment register of the drivers for the years 2013-14 and



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2014-15. In the cross-examination, RW1 stated that Mallikarjun, Manager of SRE travels got released the bus after the accident. Respondent No.2 owns 15 buses. On the date of accident, the bus was proceeding from Bengaluru to Shimoga. He further stated if it is a long route bus, there should be two drivers, otherwise one driver and one conductor. But in this bus, they have not engaged the conductor as they have not allowed the passengers between Bengaluru and Shimoga.

10. RW2 is the Authorized Officer of insurance company and he stated that the policy covers the liability of one driver, one conductor and 32 passengers and it will not cover the liability of the cleaner or coolie, and they have not collected any additional payment towards his risk. Even as per the permit taken for the above said vehicle, the maximum number of passengers permitted is 32 + 2 and it amounts to clear violation of the terms of the policy.

11. Tribunal held that the petitioner himself is a conductor cum cleaner. As such, he travelled from Bengaluru to Shimoga in the same bus after the accident and accordingly,



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the Tribunal directed the insurance company to deposit the amount.

12. Learned counsel for the insurance company has relied upon **Ramashray Singh's** case (supra), wherein it was held as follows:

8. xxx In proviso (b) to Section II (1), it has been expressly stated that "Except so far as is necessary to meet the requirements of the Motor Vehicles Act, the Company shall not be liable in respect of death of or bodily injury to any person in the employment of the insured arising out of and in the course of such employment".

10. xxx under the proviso to Section 147 (1)(b), it is clear that for the purposes of Section 146(1), a policy shall not be required to cover liability in respect of the death arising out of and in the course of any employment of the person insured unless: first : the liability of the insured arises under the Workmen's Compensation Act, 1923 and second : if the employee is engaged in driving the vehicle and if it is a public service vehicle, is engaged as conductor of the vehicle or in examining tickets on the vehicle. If the concerned employee is neither a driver nor conductor nor examiner of tickets, the insured cannot claim that the employee would come under the description of "any person" or "passenger". If this were permissible, then there would be no need to make special provisions for employees of the insured. The mere mention of the word "cleaner" while describing the seating capacity of the vehicle does not mean that the cleaner was therefore a passenger.



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13. In view of the observation made in **Ramashray Singh's** case (supra), the said finding of the Tribunal is not on proper appreciation. No additional payment is paid for covering the risk of the cleaner. The insurance company need not indemnify the owner of the vehicle. Only the owner of the vehicle i.e. respondent No.2 is liable to pay the compensation. Therefore, insurance company is exonerated from paying the liability.

14. It was stated that complaint was given by father of the petitioner after 13 days and there is no dispute regarding the involvement of the vehicle in the accident. Therefore, this Court finds that the delay in filing the application is not fatal to the case.

15. Petitioner has stated that he was a cleaner and earning Rs.6,000/- per month and also bata, but, he has not filed any proof of income. As he met with an accident in the year 2014, this Court finds it reasonable to take his notional income as Rs.8,500/- per month as per the chart prepared by the Karnataka State Legal Services Authority. The petitioner



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was aged 30 years at the time of accident and the relevant multiplier is 17. Petitioner filed Exhibit P7-wound certificate and copy of discharge summaries under Exhibits P9 to P11 and also filed other medical records.

16. Petitioner examined the doctor as PW4 and he stated that petitioner sustained the following injuries:

"Intra Articular Comminuted Fracture of Right Calcaneum.

Intra Articular Comminuted Fracture of Left Calcaneum.

Operation: of ESSEX LOPRESSTI procedure was done for right calcaneum on date 22.09.2014 and below knee cast applied and discharged on date 03.10.2014.

Clinical examination:

Difficulty to stand either on right leg or left leg or on both legs.

To squat on the floor.

To climb stairs

To walk on the slope

To walk on the Plain surface

26.3% of disability of both right lower limb and left lower limb and 13% of whole body.

Radiological examination:

Narrowing of the Talo Calcaneal (Subtalar) joint and Osteo Arthritis changes are seen in right foot. Fracture shows Union.

Fracture of left calcaneum shows Union.

The Petitioner suffers the permanent residual physical disability of about 13% of whole body."

17. The Tribunal has rightly taken one third of 26.3% and taken the disability as 9%. This Court finds no reason to



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interfere with the said finding. Thus, the loss of future running capacity comes to Rs.1,56,060/- (8,500 x12x17x9%). Petitioner was admitted in the hospital for a total period of 20 days in two different spells. Considering his age, nature of work, period of hospitalisation and other relevant factors, Tribunal has already granted Rs.50,000/- for pain and suffering and the same is confirmed. This Court finds it reasonable to grant an amount of Rs.25,000/- for loss of amenities, Rs.30,000/- for transportation, extra nourishment and attendant charges. Petitioner might not have attended any other work at least for a period of 3 months due to the injuries sustained in the accident. Therefore, Rs.25,500/- is granted under the head loss of income during laid up period. The Tribunal has not granted any amount towards medical expenses.

18. Thus, in all, the claimant is entitled for the compensation of Rs.2,86,560/- with interest at 6% per annum as against Rs.2,07,160/- awarded by the Tribunal.



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19. The award of compensation passed by the Tribunal is modified as under:

Heads	Amount in Rs.
1. Loss of future income	1,56,060/-
2. Pain and Suffering	50,000/-
4. Loss of amenities	25,000/-
5. Transportation, extra nourishment and attendant charges	30,000/-
6. Loss of earning during the laid up period	25,500/-
Total	2,86,560/-

20. In the result, the following order is passed:

- (i) MFA No.4091 of 2016 filed by the claimant is allowed in part, and MFA No.3713 of 2016 filed by insurance company is allowed.
- (ii) The claimant is entitled for the total compensation of Rs.2,86,560/- with interest at 6% per annum from the date of petition till the date of realization.
- (iii) The insurance company is exonerated from paying the liability. The insurance company might have deposited 50% of the compensation and therefore the amount in deposit shall be refunded to the insurance company.
- (iv) Respondent No.2-owner of the vehicle is directed to deposit the compensation amount of Rs.2,86,560/- with



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interest at 6% per annum within one month from the date of this order.

(iv) On such deposit, the claimant is permitted to withdraw the entire amount along with the interest accrued on it.

Sd/-
(P SREE SUDHA)
JUDGE

CS
CT:NR
List No.: 1 Sl No.: 67