



NC: 2026:KHC:50071
MFA No. 7092 of 2013

CNR: KAHC010335312013

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.7092 OF 2013 (MV-D)

BETWEEN:

1. PANDU S.G.,
S/O GUNDAPPA @ GUNDAIAH,
AGED ABOUT 52 YEARS,
R/AT OLD NO.2/229,
NEW NO.7/3, ANEPETE,
2ND CROSS, GUBBI TOWN,
TUMKUR - 570 016.
2. LAKSHMAMMA,
W/O PANDU G.
AGED ABOUT 44 YEARS,
R/AT OLD NO.2/229,
NEW NO. 7/3, ANEPETE,
2ND CROSS, GUBBI TOWN,
TUMKUR - 570 016.

...APPELLANTS

(BY SRI. SHRIPAD V SHASTRI, ADVOCATE)

AND:

1. THE DIVISIONAL MANAGER,
KARNATAKA STATE ROAD TRANSPORT,
CORPORATION LTD., K.H. ROAD,
BANGALORE - 560 027.
2. THE MANAGER,
ICICI LOMBARD MOT. INS. CO. LTD.
PRESTIGE CORNICE, 62/1,
2ND FLOOR, RICHMOND ROAD,
BANGALORE - 560 025.



NC: 2026:KHC:50071
MFA No. 7092 of 2013

CNR: KAHC010335312013

3. MR. ATHAMANANDA,
MAJOR,
R/AT PLAT NO.25,
7TH CROSS, AZAD NAGAR,
MYSORE ROAD,
BANGALORE - 560 026.

...RESPONDENTS

(BY SRI. F.S. DABALI, ADVOCATE FOR R1,
SRI. D. MANJUNATH, ADVOCATE FOR R2,
VIDE ORDER DATED 22.11.2018, SERVICE OF NOTICE
TO R3 IS HELD SUFFICIENT)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
1988, AGAINST THE JUDGMENT AND AWARD
DATED:18.06.2012 PASSED IN MVC NO.6501/2009 ON THE
FILE OF THE XX ADDITIONAL JUDGE & XVIII ACMM, MACT,
BANGALORE, PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 18.06.2012
passed by Motor Accident Claims Tribunal, XX Addl. Judge &
SVIII ACMM, Bangalore (ACMM-18) (**Tribunal**) in MVC
No.6501/2009, this appeal is filed.



CNR: KAHC010335312013

2. Brief facts leading to this case as stated are that on 13.07.2009, when Umesh S.P. was travelling as loader in goods vehicle no.KA-19-4735 on N.H.48 and when vehicle was near Nuggehalli, Channarayapatna Taluk, at 3.00 p.m., driver of KSRTC Bus no.KA-01-F-7733, drove it in rash and negligent manner and dashed against goods vehicle. In accident, Umesh sustained grievous injuries and despite treatment at Chamaraj Hospital, Hassan, Siddhartha Hospital, Tumkur and Victoria Hospital, Bangalore, he did not recover and succumbed to injuries on 17.07.2009. Alleging loss of dependency, on account of his death, a claim petition under Section 163A of Motor Vehicles Act, 1988 (**MV Act**), was filed by his parents against owner and insurer of goods vehicle and KSRTC.

3. On service of notice, owner of goods vehicle did not appear and was placed on *ex parte*. Only KSRTC and insurer opposed claim petition but on all grounds.

4. Based on pleadings, Tribunal framed issues and recorded evidence. Claimant No.1 deposed as PW1 and got marked Exs.P-1 to P-8. Official of insurer as well as driver of



CNR: KAHC010335312013

KSRTC were examined as RW1 and RW2 and got marked Exs.R-1 and R-2.

5. On consideration, Tribunal held that in accident between goods vehicle and KSRTC bus, Umesh S. P. had died, taking his annual income as Rs.38,000/-, deducting 50% towards personal expenses and applying multiplier of '16' and adding compensation under conventional heads, determined total compensation at Rs.3,23,000/-. However, holding that respondent no.3/owner of goods vehicle alone has liable to pay compensation, allowed claim petition in part. Aggrieved by absolving liability of insurer and KSRTC as well as challenging award on quantum, this appeal is filed.

6. Sri Shripad Shastri, learned counsel for claimants/appellants submitted that insofar as quantum, claimants were aggrieved by deduction of $\frac{1}{2}$ towards personal expenses instead of $\frac{1}{3}^{\text{rd}}$ as provided in II Schedule. On liability it was submitted that since this was a claim petition under Section 163A of MV Act, Tribunal rightly held issue no.2 as redundant. However, since two vehicles were involved in accident and claim petition was filed under Section 163A of MV



CNR: KAHC010335312013

Act, it ought to have held that owners/insurers of both vehicles were liable to pay compensation to claimants. Failure to do so, called for interference. On said grounds, sought for allowing appeal.

7. On other hand, Sri F.S.Dabali, learned counsel for respondent no.1 would oppose appeal. Relying on decision of this Court in ***United India Insurance Co. Ltd., v. Radha A Kamath*** reported in **2010 SCC OnLine KAR 5582**, wherein this Court under similar circumstances had held drivers of both vehicles involved liable to extent of 50% each, sought for following said ratio.

8. Sri D.Manjunath, learned counsel for respondent no.2/insurer of goods vehicle on other hand would contend that as per version of claimants, deceased was working in a Bar and Restaurant and not working as loader. Therefore, there was violation of terms and conditions of policy and insurer could not be held liable. It was further submitted that owner of goods vehicle had not challenged finding regarding liability. On said grounds, sought for dismissal of appeal.



CNR: KAHC010335312013

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

10. From above and since claimants are challenging finding of Tribunal regarding liability as well as seeking for enhancement, points that arise for consideration are:

- (1) *Whether Tribunal was justified in absolving liability of insurer of goods vehicle as well as KSRTC?*
- (2) *Whether assessment of compensation requires modification?*

RE. POINT NO.1:

11. At outset, occurrence of accident involving insured goods vehicle and KSRTC bus leading to death of S.P.Umesh is not in dispute. Admittedly, claim petition is filed under Section 163A of MV Act. Hon'ble Supreme Court in case of ***New India Insurance Co. Ltd. v. Usha Devi & Ors.*** reported in **2025 INSC 836** referring to its earlier decision in ***United India Insurance Co. Ltd. v. Sunil Kumar & Ors.*** reported in **(2019) 12 SCC 398** and ***National Insurance Co. Ltd. v. Sinitha & Ors.*** reported in **(2012) 2 SCC 356**, has held in a claim petition under Section 163A of MV Act, Tribunal cannot decide on negligence. However, on perusal of deposition it



CNR: KAHC010335312013

would occur that deceased was working in a Bar and Restaurant and there is absolutely no material to hold that he was travelling in goods vehicle as loader. Though a contention is taken that deceased was gratuitous passenger and not covered under policy, insurer has not produced copy of policy. But as owner of goods vehicle held liable to pay compensation has not preferred appeal and accepted award, owner of goods vehicle and KSRTC would require to be held liable to pay compensation to extent of 50% each as held in **Radha A Kamath's** case (supra). Point no.1 answered accordingly.

RE. POINT NO.2:

12. In a claim petition under Section 163A of MV Act, compensation has to be determined strictly as provided in II Schedule to MV Act, which provides fixed extent of $1/3^{\text{rd}}$ to be deducted towards personal expenses. In view of above, deduction of $1/2$ towards personal expenses of deceased would not be justified. Therefore, compensation has to be recalculated as follows:

$$\text{Rs.}38,000 - 1/3^{\text{rd}} \times 16 = \text{Rs.}4,05,328/-$$



CNR: KAHC010335312013

NC: 2026:KHC:50071
MFA No. 7092 of 2013

13. In addition claimants would be entitled to a sum of Rs.4,500/- towards 'loss of estate and funeral expenses'. Thus, claimants would be entitled to total compensation of Rs.4,09,828/-, rounded off to Rs.4,10,000/-. Point no.2 is answered accordingly.

14. In view of above, following:

ORDER

- (i) Appeal is ***allowed in part.***
- (ii) Judgment and award dated 18.06.2012 passed by Motor Accident Claims Tribunal, XX Addl. Judge & XVIII ACMM, Bangalore, (ACMM-18), in MVC No.6501/2009 stands ***modified*** holding insurer liable to pay compensation to claimant in first instance.
- (iii) Claimants are held entitled for total compensation of **Rs.4,10,000/-** with interest @ 6% per annum from date of petition till deposit excluding period of 327 days being period of delay in filing appeal.
- (iv) Owner of goods vehicle no.KA-19-4735 and KSRTC bus No.KA-01-F-7733 are held liable to pay same in the ratio of 50:50 each.



**NC: 2026:KHC:50071
MFA No. 7092 of 2013**

CNR: KAHC010335312013

- (v) Amount in deposit is ordered to be transmitted to Tribunal for disbursal.
- (vi) Balance amount, if any, is directed to be deposited before Tribunal within six weeks.
- (vii) On deposit, Tribunal is directed to release same in favour of claimants by RTGS.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

DR
List No.: 1 SI No.: 23