



NC: 2026:KHC:47723
MFA No. 5310 of 2021

CNR: KAHC010388972021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO. 5310 OF 2021 (MV-I)

BETWEEN:

SRI. PRASANNA C.R
S/O RAJEGOWDA,
@ RAJAMUDU @ ADAVUDIYANNA,
AGED ABOUT 33 YEARS,
CHAGACHAGARE VILLAGE,
GANDASI HOBLI,
ARASIKERE TALUK,
HASSAN DISTRICT – 573 201
PRESENTLY R/AT
C/O SHANKARA,
UDAYAGIRI LAYOUT,
HASSAN – 573 201

...APPELLANT

(BY SRI. NARASIMHA MURTHY G V.,ADVOCATE)

AND:

1. SRI. PRATHEEPA R.L,
S/O LAKKEGOWDA,
AGED ABOUT 31 YEARS,
3RD DEPOT K.S.R.T.C,
MANGALURU – 575 004
NATIVE OF BEDAGANAKOPPALU VILLAGE,
MYSORE HOBLI,
HOLENARASIPURA TALUK,
HASSAN DISTRICT – 573 203
2. THE DIVISIONAL CONTROLLER
K.S.R.T.C. MANGALURU DIVISION,
MANGALURU 3RD UNIT,
MANGALURU – 575 004

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



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3. THE MANAGER
THE NEW INDIA ASSURANCE COMPANY LTD.,
CHANDANA COMPLEX,
HARSHA MAHAL ROAD,
HASSAN DISTRICT – 573 201

...RESPONDENTS

(BY SMT. H.R.RENUKA, ADVOCATE FOR R2;
SRI. G.S.MARULAIAH, ADVOCATE FOR R3
V/O DATED 12.12.2024, NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED.14.07.2020 PASSED IN MVC NO.76/2019 ON THE FILE OF THE 2ND ADDITIONAL SENIOR CIVIL JUDGE, MACT, HASSAN, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION IN TIME.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

This appeal is directed against the judgment and award dated 14.07.2020 passed in MVC No.76/2019 by the M.A.C.T., Hassan (for short, "the Tribunal"), whereby the Tribunal partly allowed the claim petition and awarded compensation of Rs.4,66,166/- with interest at the rate of 6% per annum. Further, the Tribunal held that the driver of the car had also contributed equally to the occurrence of the accident and, accordingly, apportioned the negligence at 50% each between



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the appellant-driver of the car and the driver of the KSRTC bus. As such, the Tribunal held that the appellant was liable to bear 50% of the compensation amount and awarded Rs.2,31,583/- as compensation payable by the KSRTC. However, the Tribunal exonerated the insurance company from liability.

2. The said judgment is challenged by the claimant in this appeal.

3. Heard counsel for the respective parties.

4. Apart from urging several contentions, the learned counsel for the appellant-claimant contended that the Tribunal was not justified in fastening 50% negligence on the claimant, who was the driver of the car. He submitted that the spot sketch marked as Ex.P3, produced by the claimant before the Tribunal, clearly depicts that the accident occurred due to the rash and negligent driving of the driver of the KSRTC bus. He further contended that Ex.P3, the spot sketch, reveals that the accident occurred on the extreme left side of the highway road on the Mangalore-Bangalore Highway. He also submitted that, after investigation, the jurisdictional police had filed a charge



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sheet against the driver of the KSRTC bus. In view of the same, the Tribunal was not justified in fastening 50% negligence on the driver of the car. The learned counsel further contended that the Tribunal had erred in awarding meagre compensation without properly appreciating the income of the claimant and the extent of disability suffered by him as a result of the accident. With these submissions, he prays to allow the appeal.

5. *Per contra*, the learned counsel appearing for the KSRTC contended that the Tribunal was fully justified in fastening 50% negligence on both the vehicles. According to her, the accident occurred at a curve in the Charmadi Ghat section, where the driver of the car came on the right side of the road and dashed against the KSRTC bus. She submitted that the bus driver was driving the bus on the extreme right side of the road and, in such circumstances, the driver of the car had also equally contributed to the occurrence of the accident. She further contended that mere filing of a charge sheet against the driver of the KSRTC bus, by itself, cannot be a ground to fasten the negligence on the driver of the KSRTC bus. She also contended that the Tribunal was justified in awarding just and reasonable



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compensation after duly appreciating the evidence of the Doctor, PW.2, and taking into consideration the appropriate income of the claimant. Accordingly she prays to dismiss the appeal.

6. The learned counsel for the Insurance Company by supporting the impugned judgment submitted that the Insurance Company is not a necessary party to the proceedings.

7. I have given my anxious consideration both on the submission and perused the materials available on record.

8. As could be gathered from the records, the occurrence of the accident in question on 17.05.2018 and the involvement of the KSRTC bus in the said accident are not in dispute. As regards the aspect of negligence, on careful perusal of the investigation documents, namely, the FIR, complaint, spot mahazar and charge sheet, it is evident that the FIR was registered against the driver of the KSRTC bus and, after completion of the investigation, the jurisdictional Police laid the charge sheet against the driver of the KSRTC bus. However, on



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perusal of Ex.P3, the rough sketch, it depicts that the accident occurred on the Mangalore-Bangalore road at Charmadi Ghat, that too at a curve. The KSRTC bus was proceeding from Mangalore towards Bangalore, whereas the car was proceeding in the opposite direction, i.e., from Bangalore towards Mangalore. The rough sketch further depicts that the accident occurred on the extreme right side of the road. On perusal of the scene of occurrence produced by the KSRTC, it reveals that the accident occurred almost in the middle of the road. Exs.R1 and R2, the photographs, also reveal that the driver of the car had contributed to the occurrence of the accident. However, the contributory negligence on the part of the driver of the car cannot be assessed at 50%, as held by the Tribunal.

9. On careful perusal of the rough sketch and the photographs of the spot produced by the KSRTC, this Court is of the considered view that the contributory negligence on the part of the driver of the car can be assessed at 40%, instead of 50% as assessed by the Tribunal. Accordingly, the finding of the Tribunal with regard to negligence is modified. The driver of the car is held liable for 40% contributory negligence.



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10. As far as the compensation is concerned, the Tribunal has assessed the disability at 9%.

11. I have perused the evidence of the Doctor - PW.2. Since the Doctor has assessed the disability at 28% to the right upper limb and 18% to the left lower limb, totaling 46% to the whole body, 1/3rd of it would be just and appropriate to consider the disability. Accordingly, the disability suffered by the claimant would be at 15%.

12. The Tribunal has determined the monthly income, notionally at Rs.12,000/-. Since there is no credible documentary 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 2018, would be Rs.12,500/-.

13. As the claimant was aged 32 years, a multiplier of '16' would have to be applied. Consequently, the claimant would be entitled to a sum of **Rs.3,60,000/-** (Rs.12,500 x 12 x 16 x 15%) towards '*loss of future income*'.



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14. As a consequence, the amount of Rs.24,000/- awarded by the Tribunal towards '*loss of income during the laid up period*' would also stand enhanced to **Rs.37,500/-** (Rs.12,500 X 3).

15. Having regard to the injuries suffered by the claimant, the claimant would be entitled to a sum of **Rs.50,000/-** towards '*pain and suffering*' as against Rs.45,000/- awarded by the Tribunal.

16. The sum awarded as medical expenses at **Rs.1,01,806/-** being based on documentary evidence, do not call for modification and hence confirmed.

17. The sums awarded under other heads of compensation granted by the Tribunal, remains unaltered.

18. Consequently, the award of the Tribunal is modified and the claimant would be entitled to the following compensation:



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Sl. No.	Compensation under different Heads	As awarded by this Court (Rs.)
1.	Medical expenses	1,01,806
2.	Conveyance, food and nourishment	25,000
3.	Pain and suffering	50,000
4.	Loss of income during treatment period	37,500
5.	Loss of future earning	3,60,000
6.	Loss of amenities	30,000
7.	Future medical expenses	30,000
	Sub Total	6,34,306
	Less 40% negligence	2,53,722
	Total	3,80,584

19. Thus, the claimant is held entitled to the total compensation of **Rs.3,80,584/-** as against Rs.2,31,583/-, along with interest at the rate of 6% per annum from the date of petition till its realization.



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20. The respondent No.2 - KSRTC is directed to deposit the amount of compensation awarded within six weeks from the date of receipt of a certified copy of this judgment.

The appeal is accordingly ***allowed in part.***

**SD/-
(RAJESH RAI K)
JUDGE**

GPG
List No.: 1 Sl No.: 26