



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 21ST DAY OF JANUARY, 2026
BEFORE**

THE HON'BLE MR. JUSTICE C M JOSHI

MISCELLANEOUS FIRST APPEAL NO.6339 OF 2016 (MV-I)

BETWEEN:

THE MANAGING DIRECTOR
BMTCL, K.H.ROAD
BENGALURU-560 027
REPRESENTED BY ITS
CHIEF LAW OFFICER

...APPELLANT

(BY SRI F.S.DABALI, ADVOCATE)

AND:

SRI M.JEEVA
S/O.S.MUNISWAMY
AGED ABOUT 13 YEARS
SINCE PETITIONER IS MINOR
HE IS REPRESENTED BY
NEXT FRIEND AND
NATURAL GUARDIAN
FATHER I.E. SRI S.MINISWAMY
S/O.LATE SUBRAMANI
AGED ABOUT 46 YEARS

R/AT NO.23/1, 3rd MAIN
GANDHIGRAMA
MARUTHI LAYOUT
BENGALURU-560 021

...RESPONDENT

(BY SMT.VASUNDHARA T.P. FOR
SRI P.M.SIDDAMALLAPPA, ADVOCATES)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER
SECTION 173(1) OF THE MOTOR VEHICLES ACT, 1988
PRAYING TO MODIFY/SET-ASIDE THE JUDGMENT AND AWARD
DATED 04.05.2016 PASSED IN MVC NO.350/2015 BY XXI
ADDITIONAL SMALL CAUSES JUDGE AND XIX ACMM, MEMBER-
MACT, BENGALURU.

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by NANDINI R
Location: HIGH
COURT OF
KARNATAKA



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

CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

Heard learned counsel for appellant and learned counsel for respondent.

2. The present appeal arises out of the judgment and award dated 04.05.2016 passed in MVC.No.350/2015 by XXI Additional Small Causes Judge and MACT, Bengaluru, whereby the claimant, who was aged about 12 years, was awarded a compensation of ₹4,26,800/- for the injuries sustained by him in the Road Traffic Accident. The respondent therein, the BMTC has approached this Court in this appeal alleging that the compensation awarded by the tribunal is on the higher side.

3. The factual aspect is that on 23.06.2014, at about 3.50 p.m., the claimant was travelling in the BMTC bus bearing No.KA-01-F-4880 after attending his classes and while getting down from the bus, the driver did not allow the claimant to get down from the bus by not stopping it, resulting which, the claimant fell down and sustained



injuries and the back wheel of the said bus crushed the left foot of the claimant. He was taken to the Hospital and was inpatient from 23.06.2014 to 15.07.2014 and later, he filed a claim petition before the tribunal.

4. It was stated that the claimant was studying in Vivekananda School and because of the accident, he could not attend the School and he has suffered pain, loss of academic time. Therefore, he sought for appropriate compensation. The claim petition was opposed by the appellant-BMTC contending that there was negligence on the part of the claimant and therefore, the Corporation is not liable to pay any compensation to the claimant. Rest of the contentions of the claimant were denied.

5. The tribunal framed appropriate issues and the guardian of the claimant was examined as PW.1 and the Doctor, who assessed the injury was examined as PW.2.



6. After hearing the arguments, the tribunal came to the conclusion that the claimant is entitled for compensation of ₹4,26,800/- under the following heads:

1	Pain & Sufferings	₹ 3,00,000/-
2	Loss of earnings to his parents	₹ 25,000/-
3	Loss of future amenities	₹ 30,000/-
4	Medical expenses	₹ 51,800/-
5	Food, conveyance & Nourishment	₹ 20,000/-
	Total	₹ 4,26,800/-

7. Being aggrieved by the same, the respondent therein-BMTC is before this Court in appeal.

8. Learned counsel appearing for appellant would submit that the tribunal has applied the yardstick enunciated in the case of Master ***Mallikarjun vs. Divisional Manager, National Insurance Company Limited and another¹*** and calculated the compensation amount. He submitted that loss of future amenities could not have been granted by the tribunal, since the lumpsum amount of ₹3,00,000/- includes the said compensation also. He also submits that the negligence should have been attributed to the claimant also.

¹ ***1(2014)14 SCC 396***



9. *Per contra*, learned counsel for respondent-claimant submits that the compensation awarded by the tribunal is proper and there is no need for reducing the same. She has submitted that the argument of learned counsel for appellant that a minor has to be attributed with the negligence, do not stand for any reason.

10. On a careful consideration of the contentions raised, it is evident that after the judgment of the Apex Court in the case of ***Mallikarjun*** stated *supra*, there are several other judgments, which say that the quantum fixed by the Apex Court in the said case has to be revisited. Accordingly, in one of the judgments in the case of ***Sagar vs. Umesh and Tata AIG Insurance Company***² this Court has discussed all such judgments and has come to the conclusion that a minor's injury need not be looked at from a different angle and the vulnerability of future of a minor would be taken care by adopting a standard yardstick of the notional income, which is applied for any other adult person, who is unable

² ***MFA.No.201430/2023 [DD. 19.06.2025]***



to prove the income. Therefore, in the case on hand, admittedly, the claimant is aged 12 years and had there was no such injury, he would have shined more in his academics. The records reveal that the claimant had sustained crush injury of left foot exposing the underlining tendons and muscles and he had underwent skin grafting. PW.2 had assessed the disability of the claimant at 43% to the left lower limb.

11. It is pertinent to note that if the claimant wanted to be an athlete, definitely the said injury would come in his way and would impair his future career. In that view of the matter, the loss of future amenities to the extent of ₹30,000/- awarded by the tribunal in favour of the claimant, cannot be faulted.

12. The argument of learned counsel for appellant that there is a contributory negligence on the part of the claimant is to be rejected outright, since a minor cannot be attributed of any negligence. A duty was cast upon the driver of the bus, when he is allowing the minor to board or alight from the bus. The driver should be extra cautious



while a minor is a commuter in a bus. Therefore, the argument that there is a contributory negligence on the part of the minor claimant is devoid of any reasoning and semblance of acceptability. Hence, the said argument being absurd, is rejected outright.

13. For the aforesaid reasons, the appeal is bereft of merits and as such, the same is ***dismissed***.

The amount in deposit, if any, is ordered to be transmitted to the tribunal.

The original records is also ordered to be transmitted to the tribunal.

Sd/-
(C M JOSHI)
JUDGE

LB
List No.: 1 Sl No.: 5