HC-KAR
CNR: KAHC010410832024

NC: 2026:KHC:42190
MFA No. 4825 of 2024
C/W MFA.CROB No. 101 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 4825 OF 2024

(MV-D)

C/W

MFA CROSS OBJECTION No. 101 OF 2024 (MV-D)

IN MFA No. 4825/2024

BETWEEN:

THE MANAGING DIRECTOR
B.M.T.C.
K. H ROAD, SHANTHI NAGAR
BENGALURU-560 027.
(INTERNAL POLICY)

REPRESENTED BY IT'S CHIEF LAW OFFICER.

...APPELLANT

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI
Location: HIGH
COURT OF
KARNATAKA

(BY SRI DABALI FAKKIRAPPA SHIDRAMAPPA, ADVOCATE)

AND:

1. SMT. PRABHAVATHI V
   W/O LATE SAMPATH KUMAR S L
   AGED ABOUT 61 YEARS.

2. SRI RAKSHITH S
   S/O LATE SAMPATH KUMAR S L
   AGED ABOUT 36 YEARS.

3. SRI KEERTHI S
S/O LATE SAMPATH KUMAR S L
AGED ABOUT 34 YEARS.

RESPONDENT No.2 AND 3 ARE THE SONS
OF RESPONDENT No.1
ALL ARE RESIDING AT 54TH CROSS
K R STREET, SARJAPURA, ANEKAL TALUK
BENGALURU - 562 125.

…RESPONDENTS

(BY SRI M RAJASHEKAR, ADVOCATE FOR C/R1 & R2
(CP No.13928/2024) & ALSO FOR R3)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:03.04.2024 PASSED IN MVC No.4428/2023 ON THE FILE OF THE I ADDITIONAL SMALL CAUSE JUDGE AND ACMM, MEMBER, MACT, BENGALURU SCCH-11 AWARDING COMPENSATION OF Rs.27,23,689/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL REALIZATION.

IN MFA.CROB No. 101/2024

BETWEEN:

1. SMT. PRABHAVATHI
W/O LATE SAMPATH KUMAR S.L.
AGED ABOUT 61 YEARS.

2. SRI. RAKSHITH.S
S/O LATE SAMPATH KUMAR S.L.
AGED ABOUT 35 YEARS

3. SRI. KEERTHI.S
S/O LATE SAMPATH KUMAR S.L.
AGED ABOUT 34 YEARS
CROSS-OBJECTORS ARE R/AT
54TH CROSS, K.R. STREET

SARJAPUR, ANEKAL TALUK
BENGALURU – 562 125.

...CROSS OBJECTORS

(BY SRI M RAJASHEKAR, ADVOCATE)

AND:

THE MANAGING DIRECTOR
B.M.T.C
K.H. ROAD, SHANTHINAGAR
BENGALURU-560 027.

...RESPONDENT

(BY SRI F S DABALI, ADVOCATE)

THIS MFA CROB IS FILED UNDER ORDER 41 RULE 22 R/W SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED: 03.04.2024 PASSED IN MVC No.4428/2023 ON THE FILE OF THE I ADDITIONAL SMALL CAUSE JUDGE AND ACM, MACT, BENGALURU, (SCCH-11), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS MFA AND MFA CROB COMING ON FOR FURTHER HEARING THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

MFA No.4825/2024 is filed by the BMTC (for short 'Corporation') challenging the liability and quantum of compensation awarded in judgment and award dated

03.04.2024 passed in MVC No.4428/2023 by the I Additional Small Cause Judge, Member, MACT, Bengaluru (SCCH-11).

2. Respondent Nos.1 to 3 have filed cross-objections in MFA.Crob.101/2024 seeking enhancement of compensation.

3. Even though the appeal and cross-objections are listed for admission, they are taken up for disposal with the consent of learned counsel appearing for the parties.

4. Respondent Nos.1 to 3 made a claim petition praying to award compensation for the death of Sampath Kumar S.L. in a road traffic accident occurred on 20.05.2023 contending that the accident occurred due to rash and negligent driving of the driver of BMTC bus bearing Regn.No.KA-57-F-2799. The Tribunal after recording the evidence appreciating the evidence on

record assessed the compensation and awarded compensation under various heads as under:

Sl.No.	**Heads**	**Amount in (Rs.)**
01.	Towards dependency and loss of future income	25,58,689/-
02.	Towards consortium 1. Spousal consortium 2. Parental consortium	 44,000/- 88,000/-
03.	Towards loss of estate and funeral expenses	33,000/-
	Total	**27,23,689/-**

5. The Tribunal also awarded interest @ 6% p.a. from the date of petition till realization and held that accident occurred due to sole negligence on the part of the driver of the bus and directed appellant/Corporation to deposit the award amount with interest. The Corporation has challenged the liability and quantum of compensation and the claimants have filed cross-objections seeking enhancement of compensation awarded by the Tribunal.

6. Heard the learned counsel for appellant/Corporation and learned counsel for respondent Nos.1 to 3/claimants/cross-objectors.

7. Learned counsel for Corporation would contend that there is contributory negligence on the part of the deceased and that has not been considered by the Tribunal. On perusal of Ex.P3 – sketch, the accident has occurred on the left side of the road on which the vehicle of deceased and bus were moving and that itself clearly indicate the rash and negligent driving of the deceased. Therefore, the deceased has also contributed his negligence in the accident. He further contended that the Tribunal has taken the income of the deceased based on income tax returns filed for the assessment year 2022-2023 which includes the income from other sources i.e. income from house property and interest earned on deposits. As the income tax returns are filed for three assessment years, the average income of three years has to be taken as the income of the deceased. The Tribunal has only taken the income tax return filed for the year 2022-23 for ascertaining the income of the deceased. The

income from profession i.e. the income shown as receipts includes the expenses and therefore, 50% of the same has to be taken for the purpose of income tax and that is to be taken as professional income of the deceased. With this he prayed to allow the appeal.

8. Learned counsel for respondent Nos.1 to 3/cross-objectors/claimants would contend that Tribunal considering the charge sheet filed against the driver of the bus and that he has not challenged the charge sheet has rightly held that accident occurred due to rash and negligent driving of driver of bus. He further contends that Tribunal has rightly taken the income of deceased based on the income tax returns filed for the assessment year 2022-23. The receipts shown in the income tax returns is the professional income of the deceased wherein only 50% is taken for the purpose of calculating income tax and that 50% cannot be the income of the deceased as the said 50% is presumptive income under Section

44ADA of the Income Tax Act. Considering the said aspect the income taken by the Tribunal based on income tax returns filed for the assessment year 2022-23 is just and proper. He further submits that accident occurred in the year 2023 and the Tribunal has considered escalation only at 10% on conventional heads but as per the decision of **National Insurance Co.Ltd vs. Pranay Sethi (AIR 2017 SC 5157)** the escalation should be taken at 20%. With this he prayed to allow the cross-objections.

9. Having heard the learned counsels, the Court has perused the judgment, award and trial Court records.

10. The accident occurred on 20.05.2023 at 11.00 a.m. The deceased was riding Honda Dio Scooter bearing Regn.No.KA-01-HW-1303 on service road towards Silk Board from Agara, at that time BMTC Bus bearing Regn.No.KA-57-F-2799 came and dashed against the scooter of the deceased as a result he fell down and sustained injuries and he was shifted to the hospital where

he was declared dead. Ex.P8 is the charge sheet and it is filed against the driver of the bus for driving the bus in rash and negligent manner for the offence under Sections 279 and 304-A, IPC. The driver of the bus has been examined as RW.1. He has stated that he has not challenged the charge sheet filed against him. He has admitted that departmental enquiry has been initiated against him with regard to the present accident. Considering the said aspect, the Tribunal has rightly held that accident occurred due to sole negligence on the part of the driver of the Bus.

11. The deceased was an Advocate getting income from his profession. Ex.P20 contains three income tax returns filed for the assessment years 2020-21, 2021-22 and 2022-23. In the income tax returns filed for the year 2022-23, the total income is shown as Rs.5,77,190/- and income tax paid for the said year 26,500/- after deducting income tax paid and professional tax of Rs.200/-, the

Tribunal has taken income of the deceased as Rs.5,48,290/ per annum. If the income tax returns are filed for three assessment years, the average income of the deceased is to be taken into consideration. The professional receipts has been shown in the income tax returns filed as under:

2020-21	Rs.8,08,250.00
2020-22	Rs.5,65,250.00
2020-23	Rs.2,98,500.00

12. The said income from the profession has been shown in E-3 as gross receipts and based on presumptive income under Section 44ADA of the Income Tax Act 50% of the same is taken. The said presumptive income taken under the said provision exempts the income tax assessee from producing the books of accounts etc. and audit of books of accounts. Considering the said aspect 50% of gross receipts shown in E-4 cannot be the profession income of the deceased but the gross receipts shown in E-

3 is the gross income from the profession of deceased. Therefore, the average of the said income shown in E-3 as gross receipts is the income from the profession of the deceased. The total of three years income shown in E-3 is Rs.5,57,333/- (1/3 of 16,72,000/-). Therefore, the average income of deceased per annum is Rs.5,57,333/-. The income taken by the Tribunal at Rs.5,48,290/- cannot be said to be erroneous. Therefore, the income of the deceased taken by the Tribunal is just and proper. The Tribunal has rightly deducted 1/3 towards personal expenses and applied multiplier '7' as the deceased was aged 62 years. The Tribunal, therefore, has rightly awarded Rs.25,58,689/- towards loss of dependency.

13. The Tribunal has awarded loss of consortium in a sum of Rs.44,000 + 88,000 = Rs.1,32,000/-. The Tribunal has only considered 10% escalation on consortium of Rs.40,000/-. As the accident has taken place in the year 2023, the escalation has to be taken at 20%. Therefore,

the claimants are entitled to consortium in a sum of Rs.40,000 + 20% = Rs.48,000/- each and total would be Rs.1,44,000/- as against Rs.1,32,000/- awarded by the Tribunal. The Tribunal has awarded Rs.33,000/- towards loss of estate and funeral expenses by taking 10% escalation on Rs.30,000/-. The escalation is to be taken at 20% on Rs.30,000/-. Therefore, the claimants are entitled to a sum of Rs.36,000/- towards loss of estate and funeral expenses as against Rs.33,000/- awarded by the Tribunal. Therefore, the claimants are entitled to enhanced compensation of Rs.15,000/- with interest @ 6% p.a. from the date of petition till realization. The appellant/Corporation is liable to pay the said enhanced compensation with interest.

14. In view of above, the following:

ORDER

i) The appeal filed by the Corporation in MFA No.4825/2024 is dismissed.

ii) The Cross-objections filed by the claimants in MFA.Crob.101/2024 is allowed in part.

iii) Respondent Nos.1 to 3/claimants are entitled to enhanced compensation of Rs.15,000/- with interest @ 6% p.a. from the date of petition till realization.

iv) The appellant/Corporation shall deposit the enhanced compensation with interest before the Tribunal within a period of six weeks from this day.

v) The claimants are entitled to release of entire enhanced compensation.

vi) The amount in deposit is ordered to be transmitted to the Tribunal.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DKB
List No.: 1 Sl No.: 36
Ct.sm