



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCELLANEOUS FIRST APPEAL NO. 8211 OF 2017 (MV-D)

C/W

MFA CROSS OBJECTION NO. 77 OF 2018 (MV-D)

IN MFA No. 8211/2017

BETWEEN:

1. THE DEPOT MANAGER,
KSRTC DEPOT,
DAVANAGERE-577 001.
2. THE DIVISIONAL CONTROLLER,
KSRTC DEPOT,
DAVANAGERE DIVISION,
DAVANAGERE-577 001.
3. THE CHAIRMAN,
KSRTC INTERNAL SECURITY FUND,
SARIGE BHAVAN, SHANTHI NAGAR,
K.H.ROAD, BANGALORE-560 027.

ALL THE APPELLANTS ARE
REP. BY ITS CHIEF LAW OFFICER.

...APPELLANTS

(BY SRI F S DABALI, ADVOCATE)

AND:

1. MAHESH,
S/O SHIVARAMAPPA,
AGED ABOUT 43 YEARS,
(ACCOUNTS WORK IN PRIVATE COMPANY)
NOW NO WORK,
R/O ASHOKA NAGAR, BUDAL ROAD,



NC: 2026:KHC:3126
MFA No. 8211 of 2017
C/W MFA.CROB No. 77 of 2018

DAVANAGERE-577 001.

2. NAGARAJ MADIVALAR,
S/O RAMAKRISHNAPPA MADIVALAR,
AGED ABOUT 34 YEARS,
DRIVER OF KSRTC BUS BEARING
REG NO.KA-17/F-1245,
R/O HIREBIDARI VILLAGE,
RENEBUNNUR TALUK,
HAVERI DISTRICT-581 115.

...RESPONDENTS

(BY SRI S.G JAGADISHA, ADVOCATE FOR R-1;
NOTICCE TO R-2 IS DISPENSED WITH V/O DATED
16.01.2018)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 01.07.2017 PASSED IN MVC
NO.651/2015 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL
JUDGE, & MEMBER, MACT-IV, DAVANAGERE, AWARDED
COMPENSATION OF RS.12,85,000/- WITH INTEREST @ 8%
P.A. FROM THE DATE OF PETITION TILL REALIZATION.

IN MFA.CROB NO. 77/2018

BETWEEN:

MAHESH,
S/O SHIVARAMAPPA,
AGED ABOUT 44 YEARS,
(ACCOUNTS WORK IN PRIVATE COMPANY)
NOW NO WORK, R/O ASHOKA NAGAR,
BUDAL ROAD, DAVANAGERE-577 002.

...CROSS OBJECTOR

(BY SRI S.G JAGADISHA, ADVOCATE)

AND:

1. THE DEPOT MANAGER,
KSRTC DEPOT, DAVANAGERE.
2. THE DIVISIONAL CONTROLLER
KSRTC DEPOT,



DAVANAGERE DIVISION,
DAVANAGERE.

3. THE CHAIRMAN
KSRTC INTERNAL SECURITY FUND,
SARIGE BHAVAN, 2 MVC NO.651/2015,
SHANTHI NAGAR, K.H.ROAD,
BANGALORE.
4. NAGARAJ MADIVALAR,
S/O RAMAKRISHNAPPA MADIVALAR,
AGED ABOUT 35 YEARS,
DRIVER OF KSRTC BUS BEARING
REG.NO.KA-17/F-1245,
R/O HIREBIDARI VILLAGE,
RANEBENNUR TALUK,
HAVERI DISTRICT.

...RESPONDENTS

(BY SRI F.S DABALI, ADVOCATE FOR R-1;
NOTICE TO R-2 IS DISPENSED WITH V/O DATED
07.02.2020)

THIS MFA CROB IN MFA 8211/2017 IS FILED U/S 41 RULE 22 OF CPC R/W SECTION 173(1) OF MV ACT 1988 AGAINST THE JUDGMENT AND AWARD DATED 01.07.2017 PASSED IN MVC NO.651/2015 ON THE FILE OF THE PRL. SENIOR CIVIL JUDGE, MEMBER, MACT-IV, DAVANAGERE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THE APPEAL AND CROSS OBJECTION, COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

Heard the learned counsel for the appellants and respondent No.1.



2. Being aggrieved by the judgment in MVC.No.651/2015 dated 01.07.2017 by learned Principal Senior Civil Judge and MACT-IV, Davanagere, the respondent-Corporation is in appeal before this Court in MFA No.8211/2017 and the petitioner is before this Court in MFA Crob.No.77/2018.

3. The factual matrix of the case is that the petitioner is the husband of Netravathi, who died in a road traffic accident dated 29.03.2014. When she was traveling in the bus, belonging to the respondent-Corporation bearing No.KA-17/F-1245, the driver of the bus drove the same in a negligent manner and while overtaking a tractor, caused it to turn turtle and the passengers sustained injuries. The deceased-Netravathi was one of the passengers sustained injuries and she died at the spot. The petitioner contended that he had very much love and affection towards his wife and she was earning Rs.10,000/- per month and now the petitioner is facing



difficulties and as such, he is entitled for compensation from the respondent-Corporation.

4. On issuance of notice, the respondent appeared and admitted that a case was registered by the concerned Police and ultimately, a charge sheet has been filed against the driver of the bus. Virtually, there was no defence which could be raised by the respondent-Corporation for the claim petition.

5. The Tribunal framed appropriate issues and the petitioner was examined as PW.1 and Exs.P1 to 10 were marked in evidence.

6. After hearing the arguments, the Tribunal awarded compensation of Rs.12,85,000/-, under following heads:

SL. NO.	PARTICULARS	AMOUNT (IN RS.)
1	Loss of dependency	10,20,000/-
2	Loss of love and affection	1,00,000/-
3	Transportation of dead body and funeral expenses	35,000/-
4	Loss of estate	30,000/-
5	Loss of consortium	1,00,000/-
	TOTAL	12,85,000/-



7. Being aggrieved, the petitioner is before this Court in MFA Crob.No.77/2018 and the respondent - Corporation is before this Court in MFA No.8211/2017.

8. Learned counsel appearing for the appellants would submit that the petitioner and the deceased Netravathi had no children and therefore, on the death of Netravathi, the petitioner cannot be a dependent and therefore, the 'loss of dependency' calculated by the Tribunal is incorrect. It is his submission that the petitioner is entitled for only 'loss of estate' and nothing else. He also contends that the rate of interest awarded by the Tribunal at 8% is on the higher side.

9. *Per contra*, learned counsel appearing for the petitioner, who is the cross-objector contends that the compensation awarded by the Tribunal is abysmally low and the Tribunal erred in taking the income of the deceased at Rs.10,000/- per month and 'future prospect' has not been considered by the Tribunal and therefore, there is a need for reassessment of the compensation.



10. On a careful perusal of the records, it is evident that the deceased was traveling in a bus owned by the respondent-Corporation. Therefore, the respondent-Corporation is liable to compensate the petitioner for the death of his wife in the road traffic accident.

11. The argument of the learned counsel appearing for the Corporation that the petitioner is not entitled for compensation under the 'loss of dependency' appears to be misplaced and bereft of any reasoning. It is pertinent to note that the contribution of a home maker has been discussed by the Apex Court in catena of decisions. At no stretch of imagination, a contribution by a home maker can be neglected and said to be less than the contribution made by an earning member of the family. In the case on hand, the petitioner and the deceased were husband and wife and they had no children. Therefore, the dependency of the petitioner on the deceased Netravathi and the dependency of the deceased Netravathi on the petitioner was more. Learned counsel appearing for the appellant-



Corporation is unable to explain as to how the dependency cannot be considered by the Court. Therefore, this argument of the learned counsel for the appellants that the petitioner is not a dependent is absurd and is rejected outright.

12. It is pertinent to note that the judgment of the Apex Court in the case of ***NATIONAL INSURANCE COMPANY LIMITED VS. BIRENDER AND OTHERS***¹ and several other catena of judgments have reiterated that the legal heir happens to be a dependent and they are entitled for compensation. The income of the petitioner from his avocation cannot also be a criteria to consider that there was no dependency. Therefore, this argument of the appellants cannot be accepted.

13. The next question would be 'whether there should be an enhancement as claimed by the petitioner?' The petitioner has produced a salary certificate of the deceased as per Ex.P10, which is on a letterhead by a

¹ (2020) 11 SCC 356



shopkeeper. The author of the said document has not been examined. The evidence do not show the educational qualification of the deceased Netravathi. Ex.P10 shows that she was working as an accountant at Sohanraj Private Firm and it is the case of the petitioner that he was also working in the same establishment. Therefore, there was no impediment for the petitioner to examine the employer to establish or prove the Ex.P10.

14. Despite a cogent evidence could have been secured, it is not produced. Therefore, the reliance on Ex.P10 cannot be accepted.

15. This leads this Court to hold that notional income has to be considered. The guidelines issued by the Karnataka State Legal Services Authority for the purpose of settlement of the disputes before the Lok-Adalat prescribe a notional income of Rs.8,500/- for the year 2014. In umpteen number of decisions, it has been held that the guidelines issued by the KSLSA are in general conformity with the wages fixed under the Minimum



Wages Act and therefore, the notional income of the deceased is considered at Rs.8,500/- per month. The deceased was aged 28 years as on the date of accident.

16. Learned counsel appearing for the appellants would submit that since the petitioner was the sole dependent, 50% has to be deducted towards the personal expenses of the deceased. It is pertinent to note that the analogy which is applicable in case of death of a bachelor or a spinster would not be applicable in case of married people. It is obvious that the petitioner and the deceased had no children. Therefore, the dependency of each of them on one another was more and it would be that the deceased would be spending more on the petitioner than herself. Therefore, the argument that the analogy of the dependency in case of a bachelor cannot be made applicable to cases where the death is that of a spouse. Therefore, 1/3rd has to be deducted towards the personal expenses of the deceased. It is also pertinent to note that the judgment of the Apex Court in the case of **SARLA**



VERMA AND OTHERS VS. DELHI TRANSPORT

CORPORATION AND ANOTHER² do not specify what would be the personal expenses to be deducted in case of only one dependent. Therefore, the 'loss of dependency' is to be calculated by adding 40% to the notional income of the deceased towards future prospects, that comes to Rs.11,900/- (Rs.8,500/- + Rs.3,400/-). Hence, the 'loss of dependency' is calculated as Rs.11,900/- X 12 X 17 X 2/3 = Rs.16,18,400/- by adopting multiplier '17'.

17. Towards 'loss of love and affection/consortium', the petitioner is entitled for a sum of Rs.44,000/-. So far as the 'funeral expenses' and 'loss of the estate' is concerned, as held by the Apex Court in the case of **NATIONAL INSURANCE COMPANY LIMITED VS. PRANAY SETHI AND OTHERS³**, the petitioner is entitled for Rs.16,500/- each under the above heads.

² (2009) 6 SCC 121

³ AIR 2017 SC 5157



18. Thus, the petitioner is entitled for the modified compensation under different heads as below:

PARTICULARS	AMOUNT (IN RS.)
Loss of dependency	Rs.16,18,400/-
Loss of love and affection/consortium	44,000/-
Funeral expenses	16,500/-
Loss of estate	16,500/-
TOTAL	16,95,400/-
Less awarded by Tribunal	12,85,000/-
Enhancement	4,10,400/-

19. Thus, the petitioner is entitled for enhanced compensation of Rs.4,10,400/- with interest and therefore, the cross-objection deserves to be allowed in part. The rate of interest awarded by the Tribunal at the rate of 8% is not sustainable in view of catena of judgments of this Court, where it is held that the rate of interest shall be 6%. Hence, the following:

ORDER

- (i) The appeal in MFA.No.8211/2017 is dismissed.
- (ii) MFA Crob.No.77/2018 is allowed in part.



(iii) The impugned judgment and award passed by the Tribunal is modified by awarding a sum of Rs.4,10,400/- in addition to what has been awarded by the Tribunal together with interest at 6% p.a. from the date of petition till its deposit.

(iv) A sum of Rs.15,000/- shall be deducted as done by the Tribunal.

(iv) The Insurance company is directed to deposit the same as provided under Section 168(3) the Motor of Vehicles Act, 1988.

(v) The amount which is in deposit before this Court be transmitted to the Tribunal.

Sd/-
(C M JOSHI)
JUDGE