



CNR: KAHC010505892023

NC: 2026:KHC:46952
MFA No. 6605 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO.6605 OF 2023(MV-D)

BETWEEN:

THE DIVISIONAL CONTROLLER,
KSRTC,
RURAL TRANSPORT DIVISION,
BANNIMANTAP,
MYSURU - 570 015.
REP BY ITS CHIEF LAW OFFICER,
K H ROAD, SHANTHINAGAR,
BENGALURU - 560 027.

...APPELLANT

(BY SRI. D. VIJAYAKUMAR., ADVOCATE)

AND:

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1. SMT. JAYAMMA,
W/O LATE KALASIAH,
AGED ABOUT 50 YEARS,
2. SRI. MAHENDRA,
S/O LATE KALASIAH,
AGED ABOUT 36 YEARS,
3. SRI. PRAVEEN K.,
S/O LATE KALASIAH,
AGED ABOUT 34 YEARS,



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ALL ARE R/AT:
KOTEHUNDI VILLAGE,
RAYANAKERE POST,
MYSURU TALUK - 570 008.

...RESPONDENTS

(BY SRI. SAMPATH KUMAR A V., ADVOCATE FOR R1 TO R3)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, 1988, AGAINST THE JUDGMENT AND AWARD DATED:17.02.2023 PASSED IN MVC NO.1551/2019 ON THE FILE OF THE VII ADDITIONAL DISTRICT JUDGE AND MEMBER, MACT, MYSURU, AWARDING COMPENSATION OF RS.14,92,284/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL REALIZATION.

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

CORAM: HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

This appeal by the Corporation calling in question the Judgment and Award dated 17.02.2023, passed by the VII Addl. District Judge and Member, Motor Accident Claims Tribunal, Mysuru¹ in MVC No.1551/2019, on negligence and quantum.

¹ The Tribunal, for short



2. The parties are referred to as per their rankings before the Tribunal.

3. Facts germane to file the present appeal are as under:

3.1 In an unfortunate event occurred on 08.10.2019 at 8.45 pm, one Mr.Kalasaiah – husband of claimant No.1 and father of claimants 2 and 3, while he was proceeding on his TVS XL Moped bearing registration No.KA-09/EN-5347 as a rider, met with an accident due to actionable rash and negligent driving of KSRTC² Bus bearing registration No.KA-45/F-1822 driven by its driver, lost his life. Accordingly, the claimants were before the Tribunal seeking compensation of Rs.19,00,000/- with interest @ 12% per annum.

3.2 Upon notice, the Corporation appeared through its counsel and filed statement of objections, denying

² Hereinafter referred to as, the Corporation



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the age, occupation and monthly income of the deceased, so also denied the place, date and time of the alleged accident. It was specifically contended that, the alleged accident occurred due to careless riding of Moped by the deceased and the claimants are put to strict proof with respect to death resulting due to the injury suffered. Further, taken a contention that the compensation claimed is exorbitant, too higher side and most unreasonable and sought to dismiss the claim petition.

3.3 The Tribunal after completion of pleadings, framed following:

- 1. Whether the petitioner proves that, the death of the deceased is due to the motor vehicle accident that has taken place on 08.10.2019 at 8.45 p.m. near Karanji Hotel situated at Tandavapura Village, on Nanjangud-Mysuru road, within the limits of Nanjangud Town Police Station, due to the actionable negligence of the driver of the*



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*KSRTC bus bearing registration No.KA45/F-1822
belonging to respondent?*

*2. Whether the petitioner is entitled for
compensation? If so, to what extent and from
whom?*

3. What order or award?

3.4 The Tribunal answered the above issues as under:

Issue No.1 : In the Affirmative;

Issue No.2 : Partly in the Affirmative;

Issue No.3: As per the final order.

3.5 The Tribunal having considered the evidence led by the parties and upon perusal of the documents produced by the claimants, as none produced on behalf of the Corporation, of the opinion that, the driver of the bus is responsible/ liable for the accident and answered Issue No.1 in the Affirmative, against the Corporation. The Tribunal has considered Ex.P8 RTC, which indicates that the deceased was in possession of land measuring 20 Guntas and



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considering his age, has taken the income under Minimum Wages Act for the year 2019-20 at Rs.445/- per day and per month at Rs.13,350/- and added 10% towards future prospectus with reference to the age of the deceased and awarded total compensation of Rs.14,92,284/- with interest @ 6% per annum from the date of petition till realization and fastened the entire liability on the Corporation. It is this Judgment and Award passed by the Tribunal is called in question in this appeal, by the Corporation both on negligence as well as quantum.

4. Heard, Sri.D.Vijaya Kumar, learned counsel appearing for the Corporation and Sri.A.V.Sampath Kumar, learned counsel appearing for the claimants.

5. Sri.D.Vijaya Kumar, with all vehemence submits that the Tribunal has failed to consider the Police records and the Spot sketch and the evidence of the bus driver and by misreading the documents, especially the Spot



mahazar, fastened entire liability on the Driver of the KSRTC Bus stating that, he is exclusively responsible for the accident. Further, he submits that the Tribunal has considered adding 10% towards future prospectus. The deceased was aged 63 years as per the Post Mortem Report. Hence, there is no question of adding future prospectus @ 10%. The Tribunal has considered the age of the deceased as 60 years. In view of law laid down by the Hon'ble Supreme Court in ***NATIONAL INSURANCE COMPANY LIMITED VS. PRANAY SETHI***³, 10% is required to be added only in respect of persons who are within 60 years and not 60 years and above. Hence, the future prospectus @ 10% added to the existing income is unsustainable in law and sought to allow the appeal.

6. Per contra, Sri.A.V.Sampath Kumar, with all vehemence submits that as per the Chart prepared by Karnataka State Legal Services Authority for settling the

³ AIR 2017 SC 5157



disputes before Lok-Adalat, for the accident occurred in 2019, the income is fixed at Rs.14,000/-, but the Tribunal has considered the income under the Minimum Wages Act. He submits that, under Section 168 of Motor Vehicles Act, 1988, the claimants are required to be paid just compensation, though they have not filed any appeal, but the Court exercising its power under Order 41 Rule 33 of CPC, being an Appellate Court, may enhance the compensation under the concept of 'just compensation'. So far as negligence is concerned, learned counsel submits that the Tribunal after considering the entire Police record, came to a right conclusion fastening entire liability on the driver of the bus that, he is exclusively responsible for causing the accident. As such, no interference is required on Issue No.1 and sought to dismiss the appeal filed by Corporation and to enhance the compensation within the concept of 'just compensation'.



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7. Having considered the rival submissions, perused the entire appeal paper as well as Trial Court record.

8. The following points would arise for consideration:

- 1. Whether the Corporation has made out any case to interfere with the Judgment and Award passed by the Tribunal, both on negligence and quantum?*
- 2. Whether the Claimants have made out any case to award appropriate compensation within the concept of 'Just Compensation', exercising power conferred on the Appellate Court under Order 41 Rule 33 of CPC?*

9. My answer to the above points are ***Partly in the Affirmative***, for the following:

REASONS

10. **POINT NO.1**: Though a contention has been taken with reference to negligence on the part of the deceased in riding the motorcycle, however the Police



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records produced, all speaks and points against the driver of the Bus. In that view of the matter, the Tribunal has properly considered the documents and answered Issue No.1 in the Affirmative, fastening entire negligence on the driver of the bus, which does not call for any interference at the hands of this Court.

11. So far quantum is concerned, this Court is of the opinion that there is some force in the argument of Sri.D.Vijaya Kumar, that the Tribunal has added 10% towards future prospectus, which is unsustainable, in view of the age the deceased. The Tribunal as considered the age of the deceased as 60 years in absence of any document to that effect, whereas, as per the Post Mortem Report, his age was 63 years. In that view of the matter, the same is required to be considered as 63 years. Further, in view of considering the age as 63 years, the appropriate multiplier would be '7', with appropriate deduction of $\frac{1}{3}^{\text{rd}}$. Accordingly, point No.1 is answered Partly in the affirmative.



12. **POINT NO.2**: This Court finds force in the argument of Sri.A.V.Sampath Kumar, in view of Section 168 of M.V Act, which casts a duty upon the Court to award just compensation. The Tribunal ought to have considered the amount even under the Chart and awarded appropriate compensation. Since there is a failure on the part of the Tribunal to consider the income fixed under the chart in the absence of proof of income, the same has caused loss to the claimants who are otherwise entitled for just compensation, within the ingredients under Section 168 of M.V Act and concept of 'Just Compensation'. In that view of the matter, non-filing of appeal by the claimants seeking enhancement, cannot be a reason which tie up the hands of the Appellate Court which has got all powers under Order 41 Rule 33 of CPC to consider the case even to adjudicate upon the points to which the other side is entitled, in the absence of any cross-objection or appeal having been filed. Further, in view of the law laid down by Hon'ble Supreme Court in **PRANAY SETHI** (supra), the



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claimants are also entitled for 10% escalation on compensation awarded under conventional heads. In that view of the matter, this Court considering the income fixed under the Chart supra, proceeds to re-assess the compensation, which is as under:

SL. NO.	PARTICULARS	COMPENSATION AWARDED BY THE TRIBUNAL (IN RS.)	COMPENSATION AWARDED BY THIS COURT (IN RS.)
1	Loss of Dependency	10,57,320-00	7,84,000-00 (14,000x12x7x2/3)
2	Medical Expenses	2,84,964-00	2,84,964-00
3	Loss of consortium	1,20,000-00	1,20,000-00
4	Funeral expenses	15,000-00	15,000-00
5	Loss of estate	15,000-00	15,000-00
6	10% escalation, for every completed three years service (for two terms)	-	30,000-00
	TOTAL	14,92,284-00	12,48,964-00

13. Accordingly, the claimants are entitled for reassessed compensation of Rs.12,48,964/-, rounded off at **Rs.12,50,000/-**, as against Rs.14,92,284/- awarded by the Tribunal, which shall carry interest @ 6% per annum from the date of petition till realization.



14. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

- I. The appeal is ***allowed in part.***
- II. The Judgment and Award dated 17.02.2023, passed by the VII Addl. District Judge and Member, Motor Accident Claims Tribunal, Mysuru in MVC No.1551/2019, is modified and the compensation is reduced.
- III. The claimants are entitled for reassessed compensation of Rs.12,48,964/-, rounded off at ***Rs.12,50,000/-***, as against Rs.14,92,284/- awarded by the Tribunal, which shall carry interest @ 6% per annum from the date of petition till realization.
- IV. The amount in deposit shall be transmitted to the concerned Tribunal forthwith, for disbursement.



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- V. The Corporation shall deposit the balance reduced compensation along with accrued interest stated supra, within six weeks from the receipt of certified copy of this order.
- VI. Upon deposit, the apportionment and disbursement is as per the order passed by the Tribunal.
- VII. The Trial Court Record, shall be transmitted to the concerned Tribunal forthwith, without causing any delay.
- VIII. No order as to costs.

Sd/-
(T.M.NADAF)
JUDGE

TKN
List No.: 1 Sl No.: 4
ct-vn