



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCELLANEOUS FIRST APPEAL NO. 5639 OF 2016 (MV-I)

BETWEEN:

SMT. P ANUPAMA,
W/O MR. SANTHOSH KUMAR K.V.,
AGED ABOUT 34 YEARS,
R/AT NO.149, 1ST MAIN, 7TH CROSS,
KENCHENAHALLI, RAJA RAJESHWARINAGAR,
BANGALORE-560 098.

...APPELLANT

(BY SRI B KESHA MURTHY, ADVOCATE)

AND:

THE MANAGING DIRECTOR,
KSRTC DEPOT,
BANGALORE, CENTRAL OFFICE,
K.H.ROAD, SHANTHINAAR,
BANGALORE-560 027.

...RESPONDENT

(BY SRI LALITHA P M, ADVOCATE)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 13.01.2016 PASSED IN MVC NO.4474/2014 ON THE FILE OF THE XXI ADDITIONAL SMALL CAUSE JUDGE, & XIX ACMM, MEMBER, MACT, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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



CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

1. Heard learned counsel appearing for the appellant and learned counsel appearing for the respondent-KSRTC.

2. Being aggrieved by the judgment and award in MVC No.4474/2014 dated 13.01.2016 by learned XXI Additional Small Causes Judge and Member, MACT Bangalore, the petitioner is before this Court seeking enhancement of the compensation.

3. It is the case of the petitioner that on 27.09.2013 at about 03.45 p.m., when she was riding her two wheeler bearing No.KA.41.EA.5551, a driver of a bus belonging to the respondent- KSRTC, bearing No.KA.10.F.0147 came from behind and dashed against the two wheeler of the petitioner resulting in an accident, wherein she sustained grievous injuries. The petitioner was shifted to Government Hospital and later to BGS



Hospital, where she was inpatient until 02.10.2014. It was contented that the petitioner had sustained injuries to both the hands and there was fracture of right mid 1/3rd of the humerus with radial nerve palsy and fracture of radius and ulna of the left hand, for which she had also underwent surgeries. It was contented that the petitioner was working as an IT Analyst in Collabera Technologies Private Limited and was earning Rs.40,000/- per month. Due to the accidental injuries, she had to resign from the job and her resignation was accepted by the Company as per Exhibit P17. It was contented that the petitioner is unable to work and therefore, adequate compensation be awarded to her.

4. The petition was opposed by the respondent-KSRTC contending that there was no such negligence on the part of the driver of the bus and the bus was not at all involved in the accident.



5. On the basis of the above contentions, the Tribunal framed appropriate issues and the petitioner was examined as PW1. The Doctor who treated her was examined as PW2. Exhibit P1 to 18 were marked in evidence. The driver of the offending bus was examined as RW1.

6. The Tribunal after hearing the arguments, awarded the compensation of Rs.2,80,000/- under the following heads:

1	Pain & Sufferings	Rs. 50,000/-
2	Medical expenses	Rs. 2,00,000/-
3	Food & Nourishment	Rs. 10,000/-
4	Loss of amenities of life	Rs. 10,000/-
5	Conveyance & attendant charges	Rs. 10,000/-
	Total	Rs. 2,80,000/-

7. It is pertinent to note that though the Tribunal had held that there is a whole body disability of 23% in para 11, it does not award any compensation on the ground that petitioner had resigned from the job and there is no convincing evidence before the Tribunal to establish that she was incapable to continue with her job



after the accident. It is worth to note that despite such finding, the Tribunal fails to award any adequate compensation under the head of 'loss of amenities in life' which would have covered such reasoning of the Tribunal.

8. The learned counsel appearing for the appellant/petitioner submits that Exhibit P8 clearly shows that the petitioner was working in Collabera Technologies Private Limited and was earning about Rs.40,000/- per month. The salary slips at Exhibit P8 pertain to July and August 2014. The accident had occurred in September 2013. Obviously, the petitioner could not produce any salary slip subsequent to that and therefore, it is submitted that the finding of the Tribunal in holding that there was no salary slips subsequent to the accident is not sustainable. He submits that when the Tribunal had come to the conclusion that there is a disability of 23%, it should have granted the compensation under the head of 'loss of future income on account of disability'. He submits that



the compensation under the head of 'loss of amenities in life' also to be enhanced.

9. *Per contra*, learned counsel appearing for the respondent-KSRTC submits that the reasoning for resignation is not forthcoming from the evidence available on record and therefore, the petitioner cannot claim any compensation under the head of 'loss of future income'. It is submitted that nothing prevented the petitioner from producing any material to show that the resignation was on account of the injuries sustained by her. Therefore, it is submitted that the impugned judgment is proper and correct and no indulgence is required.

10. A careful perusal of the records would reveal that the petitioner was riding her two wheeler and she was hit by the bus belonging to the respondent-KSRTC. It is worth to note that the salary slips at Exhibit P8 for the months of July and August 2014, show that she was an IT Analyst. The Exhibit P17 happens to be the acceptance of



the resignation letter issued by Collabera Technologies Private Limited and it simply says that on 08.08.2015 the petitioner had submitted the resignation letter and as requested by her, after the closing hours, her resignation stands accepted. It is the submission of the learned counsel for the respondent that there is nothing on record as to what transpired between the date of the accident and the date of resignation i.e. on 08.08.2015, which is nearly about a year.

11. It is relevant to note that the testimony of PW2 is clear in saying that petitioner had sustained fracture in both her hands, and that of the right hand involved nerve palsy. The discharge summary which may be found in Exhibit P15 show that there was swelling deformity at the right distal arm, tenderness and abnormal mobility at the right distal arm, active wrist dorsiflexion not possible, loss of sensation in the distribution of the right radial nerve, radial and no ulnar pulsation well felt. It also discloses that the prognosis was explained and the management of the



right hand due to radial palsy was explained to her. However, it also mentioned that radial nerve was intact and in continuity. This would indicate that the usage of the right hand is not fully dysfunctional, but it is partly functional. However, it is not known as to what extent the right hand of the petitioner is usable for her job. It is the functional disability which needs to be considered by the Tribunal, but not the physical disability. Assessing the physical disability is the domain of the medical expert and medical expert cannot say about the functional disability of the petitioner. In view of the above, this Court is of the view that when the Tribunal holds that there is disability, it should have assessed the functional disability of the petitioner. If the functional disability cannot be assessed readily on account of various factors, it is safe to take one third (1/3) of the physical disability as the functional disability. But however, when there is material on record to show that she was an IT Analyst, it was incumbent upon the Tribunal to assess the functional disability by



making necessary enquiries to PW1. The cross-examination of PW1 also do not throw any light in respect of the nature of the work that is carried out by her. Therefore, in view of the available material on record, this Court is of the view that there is functional disability of 15%. Under these circumstances, loss of future income on account of disability is assessed at Rs.40,000/- x 12 x 16 x 15% = 11,52,000/- by adopting the multiplier of '16' for the age of 32 years.

12. The Tribunal has awarded a sum of Rs.10,000/- under the head of loss of amenities in life. It is evident that petitioner had sustained fracture of both the arms i.e., fracture of right humerus and fracture of left ulna of the left arm. Therefore, the loss of amenities in life deserves to be enhanced to Rs.40,000/-.

13. Further the testimony of PW2 shows that there is a requirement of removal of implants. Therefore, the future medical expenses may have to be incurred by her.



This aspect is not considered by the Tribunal. Therefore, future medical expenses is considered at Rs.50,000/-. Rest of the compensation awarded by the Tribunal do not require any enhancement.

14. In the result, the petitioner is entitled for a total compensation of Rs.15,02,000/- under the following heads:

Sl. No.	Description	Amount
1.	Pain and suffering	Rs. 50,000/-
2.	Medical expenses	Rs. 2,00,000/-
3.	Food and nourishment	Rs. 10,000/-
4.	Loss of amenities in life	Rs. 40,000/-
5.	Loss of future earnings on account of disability	Rs.11,52,000/-
6.	Future medical expenses	Rs. 50,000/-
	Total	Rs.15,02,000/-
	Less: awarded by the Tribunal	<u>Rs. 2,80,000/-</u>
	Enhancement	<u>Rs.12,22,000/-</u>

Thus, the petitioner is entitled for additional sum of Rs.12,22,000/- together with interest at 6% p.a.

15. For the aforesaid reasons, the appeal deserves to be allowed in part. Hence, the following:



ORDER

(i) The appeal is allowed in part.

(ii) The impugned judgment and award passed by the Tribunal is modified. The petitioner is entitled for a sum of Rs.12,22,000/- in addition to what has been awarded by the Tribunal along with interest at the rate of 6% p.a. from the date of petition till its deposit.

(iii) The rest of the terms and conditions ordered by the Tribunal remain unaltered.

(iv) Respondent-KSRTC is directed to deposit the compensation amount within four weeks from the date of the receipt of the copy of this judgment.

Sd/-
(C M JOSHI)
JUDGE