



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JUNE, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 1795 OF 2020

(MV-D)

BETWEEN:

1. SMT. NAZEEMA KHANAM
W/O LATE FAIROZ KHAN
AGED ABOUT 32 YEARS
OCC: HOUSEHOLD.
2. PURKHAN
S/O LATE FAIROZ KHAN
AGED ABOUT 09 YEARS
MINOR, STUDENT.
3. AFNAN KHAN
S/O LATE FAIROZ KHAN
AGED ABOUT 07 YEARS
MINOR, STUDENT.
4. AFIYA KHANAM
D/O LATE FAIROZ KHAN
AGED ABOUT 03 YEARS
MINOR, STUDENT

A2 TO A4 ARE MINORS
HENCE REP. BY THEIR
NATURAL GUARDIAN MOTHER
I.E., APPELLANT NO.1.

5. SRI RABBANI KHAN
S/O GHOUSE KHAN
AGED ABOUT 63 YEARS

Digitally signed by
SUMATHY
KANNAN
Location: CH
COURT OF
KARNATAKA



OCC: AGRICULTURE.

6. SMT. KOUSAR BANU
W/O RABBANI KHAN
AGED ABOUT 58 YEARS
OCC: HOUSEHOLD.
ALL R/AT HOSUR KEREABILACHI VILLAGE
CHANNAGIRI TALUK
DAVANAGERE DISTRICT.

...APPELLANTS

(BY SRI OMRAN KHAN., ADVOCATE FOR
SRI MURTUZA ALI BAIG, ADVOCATE)

AND:

1. THE MANAGER
KARNATAKA STATE ROAD
TRANSPORT CORPORATION
BUS BG.REG.NO.KA-17/F-1353
DAVANAGERE DEPOT
DAVANAGERE TALUK AND DISTRICT
2. THE MANAGING DIRECTOR
K.S.R.T.C., R.C.OWNER OF BUS
BG.REG.NO.KA-17/F-1353
DAVANAGERE DEPOT
DAVANAGERE TALUK AND DISTRICT.

...RESPONDENTS

(BY SRI K. NAGARAJA., ADVOCATE)

THIS MISCELLANEOUS FIRST APPEAL IS FILED U/S.173(1) OF MV ACT, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 20.08.2019 PASSED IN MVC NO.145/2019 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND MEMBER, MACT-IV, DAVANGERE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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



CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeal seeks to challenge the judgment and award dated 20.08.2019 in M.V.C.No.145/2019 passed by the Principal Senior Civil Judge & Member, MACT-IV, Davanagere (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded compensation to the appellants/claimants in a sum of Rs.12,85,000/- along with interest at the rate of 8% per annum from the date of petition till its realisation deducting the amount of interim compensation of Rs.50,000/- paid by the respondents.

2. The Appeal though listed for admission, with the consent of the learned Counsel for the parties, is taken up for final hearing and disposal today itself.

3. Briefly the facts of the case are that on 15.11.2018 the deceased Fairoz Khan was travelling in a motorcycle



bearing Registration No.KA-17-EW-0008. The motor cycle was being driven by him at 4.00 p.m. from Channagiri Taluk, Hosur Village Bus Stand towards Sulekere Village at that time, on Channagiri side a KSRTC Bus bearing Registration No.KA-17-F-1353 driven by its driver in high speed in a rash and negligent manner and collided with the motorcycle that the deceased was travelling on. As a result of the collision, the deceased fell down from the motorcycle and succumbed due to his injuries at the accident site itself. The deceased was declared brought dead at the Health Centre, Kerebilachi.

4. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'M.V.Act' for short) was filed by the wife, three minor children and two dependent parents of the deceased contending that at the time of the accident, the deceased was working as a mason and earning about Rs.15,000/- to Rs.20,000/- per month.



4.1. The claim petition was contested by respondent No.1/Depot Manager as well as respondent No.2/RC owner of the offending vehicle. The case was also registered against the bus driver. The respondents filed an objection stating that the driver did not have a valid driving licence and contested the proceedings.

4.2. Based on the pleadings of the parties, the following issues were framed by the learned Tribunal:

"(i) Whether the petitioners prove that on 15.11.2018 at about 4.10 p.m., the deceased Fairoz Khan was going in his motor bike bearing Reg.No.KA-17/EW-0008 from bus stand of Hosuru village to Sulekere village, at that time, the driver of respondent corporation No.1 drove the KSRTC bus bearing Reg.No.KA-17/F-1353 near Garden of Abdul Rahim in a rash and negligent manner with high speed endangering to human life and dashed against the deceased Fairoz Khan's motor bike and thereby deceased fell down under the bus. Due to the impact of the accident, the deceased Fairoz Khan sustained grievous injuries and died at the spot?

(ii) Whether the respondent No.1 and 2 prove that, they are not liable to pay any compensation ?

(iii) Whether the petitioners are entitle for compensation? If so, at what quantum and from whom?



(iv) What order or award?"

4.3. Claimant No.1/wife of the deceased was examined as PW.1 and got 21 documents marked as Exhibits P1 to P21 including Ex.P1/FIR, Ex.P3/spot mahazar, Ex.P4/photo, Ex.P5/sketch, Ex.P6/vehicle seizure mahazar report, Ex.P8/Inquest Report, Ex.P12/Insurance Policy and Ex.P10/Final Report-Charge Sheet. The bus driver was examined as RW.1 and two documents were filed by him as Exs.R1 and R2.

4.4. Based on the pleadings, the learned Tribunal, after examining the details and the evidence produced, based on the FIR (Ex.P1), complaint(Ex.P2), spot mahazar (Ex.P3) photo (Ex.P4), sketch(Ex.P5), and vehicle seizure mahazar (Ex.P6), found that the deceased had succumbed to the fatal injuries caused by the offending vehicle. It was also held that negligence stood proved. In addition, the learned Tribunal considered the notional income at Rs.9,000/- per month and deducted 1/4th towards



personal expenses, applied '15' as the multiplier and calculated loss of dependency as:

$$[\text{Rs.}6,750/- \times 12 \times '15' = \text{Rs.}12,15,000/-]$$

4.5. The learned Tribunal also awarded amounts for loss of consortium, loss of estate and funeral expenses in the following manner:

Sl. No.	Particulars	Amount (Rs.)
1	Loss of dependency	12,15,000/-
2	Loss of Consortium	40,000/-
3	Loss of Estate	15,000/-
4	Funeral Expenses	15,000/-
	TOTAL	12,85,000/-

4.6. The learned Tribunal thus awarded a sum of Rs.12,85,000/- along with interest at 8% per annum deducting Rs.50,000/- towards interim compensation.

5. As stated above, the Appeal has been filed by the appellants/claimants and has been contested by the learned Counsel for the respondents/KSRTC and no challenge to the Impugned Award has been filed by the respondents/KSRTC.



6. Learned Counsel for the appellants has raised three grounds in his challenge in the present appeal. Learned Counsel contends that the notional income in the year 2018 was Rs.12,500/-. Thus, at least that amount should have been taken by the learned Tribunal. He further submits that no future prospects were awarded. Since the deceased was 36 years of age, future prospects ought to have been awarded. Lastly, it is contended that the loss of consortium has not been awarded in accordance with the judgment of the Supreme Court in the case of ***National Insurance Company Limited v. Pranay Sethi***¹.

7. Learned Counsel for the respondents/KSRTC on the other hand submits that there were no documents filed to prove the income and thus the income has been rightly assessed. He further contends that no additional amounts towards loss of consortium, loss of estate and funeral expenses ought to have been awarded by the learned Tribunal.

¹ (2017) 16 SCC 680



8. The question that arises for consideration before this Court is whether the compensation awarded by the learned Tribunal is in accordance with law?

9. Admittedly, the notional income in the State of Karnataka for the year 2018 was Rs.12,500/-. Thus, even if no documents were produced evidencing income of the deceased, notional income would have to be taken into consideration, which was not done. In addition, the deceased was survived by six dependents being his wife, three minor children and his dependent parents. The amount to be deducted in the case of six dependents would be $1/4^{\text{th}}$ towards personal expenses of the deceased. The deceased being 36 years, the multiplier to be used would be '15'. In addition, since future prospects have not been awarded, 40% of the income be added to the future prospects. Accordingly, the loss of dependency is recalculated as follows:

$$\begin{aligned} &[\text{Rs.12,500} + 40\% \text{ of Rs.12,500} = \mathbf{17,500/-} \text{ (-)} \\ &1/4^{\text{th}} \text{ of Rs.17,500/-} = \mathbf{Rs.13,125/-} \\ &\text{Rs.13,125/-} \times 12 \times '15' = \mathbf{23,62,500/-}] \end{aligned}$$



10. In view of the law laid down by the Supreme Court in ***Pranay Sethi's*** case referred to supra, loss of consortium is payable at Rs.40,000/- to the six claimants amounting to **Rs.2,40,000/-**. To this extent, the award of the Tribunal requires to be recalculated in the following terms:

Sl. No.	Particulars	Amount (Rs.)
01.	Loss of Dependency	23,62,500-00
02.	Loss of Consortium (Rs.40,000x6)	2,40,000-00
03.	Loss of Estate	15,000-00
04.	Transportation of dead body, funeral expenses charges and miscellaneous expenses	15,000-00
	Total	26,32,500-00
	Less: Awarded by the Tribunal	12,85,000-00
	Enhanced compensation	13,47,500-00

11. Hence, the appellants/claimants are entitled to a total compensation of **Rs.26,32,500/-** along with interest as awarded by the learned Tribunal, from the date of petition till its realisation, after deduction of any amounts paid as interim compensation to the claimants. Accordingly, this Court proceeds to pass the following:

ORDER

(i) The appeal is ***allowed in part;***



(ii) The judgment and award dated 20.08.2019 in M.V.C.No.145/2019 passed by the Principal Senior Civil Judge and MACT-IV, Davanagere is modified, enhancing the compensation by **Rs.13,47,500/-** along with interest at the rate of 8% per annum as awarded by the learned Tribunal from the date of petition till realization.

(iii) The remaining portion of the Impugned Award of the Tribunal remains undisturbed.

(iv) The respondents are directed to pay the enhanced compensation with interest as awarded by the Tribunal within eight weeks from today.

(v) On such deposit of compensation, the same shall be released in favour of the appellants/claimants on filing of an appropriate application for withdrawal of the enhanced amount in the proportion as was set out in the Impugned Award.



(vi) The Registry is directed to draw the modified Award accordingly.

(vii) The Registry is directed transmit a copy of this judgment and the records to the concerned Tribunal.

(viii) Pending application(s), if any, stand closed.

No order as to costs.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

KSR/BMV*
List No.: 1 SI No.: 7