



CNR: KAHC010382762024

NC: 2026:KHC:42261
MFA No. 4575 of 2024
C/W MFA.CROB No. 72 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF AUGUST, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.4575 OF 2024(MV-I)

C/W

MFA CROSS OBJECTION NO. 72 OF 2024 (MV-I)

IN MFA No. 4575/2024

BETWEEN:

THE DIVISIONAL CONTROLLER,
KSRTC , HASSAN DIVISION,
HASSAN - 573 201,
REP BY ITS CHIEF LAW OFFICER,
K .S.R.T.C, CENTRAL OFFICE,
K H ROAD, SHANTHINAGARA
BENGALURU - 560 027.

...APPELLANT

(BY SRI. BALARAJ A C., ADVOCATE)

AND:

K.B. SAMEEMA BANU,
(K B SAMEENA BANU)
W/O ABDUL RAFIQ,
AGE ABOUT 36 YEARS,
RESIDENT OF HALESANTHEVERI,
(HALESANTHEBEEDHI)
PUMP HOUSE ROAD,
SAKALESH PURA - 573 134.

...RESPONDENT

(BY SRI. JWALA KUMAR, ADVOCATE)

Digitally
signed by
REKHA R
Location:
High Court
of Karnataka



CNR: KAHC010382762024

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C/W MFA.CROB No. 72 of 2024

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:05.12.2023
PASSED IN MVC NO.953/2019 ON THE FILE OF THE SENIOR
CIVIL JUDGE, ADDITIONAL MACT, AND JMFC, SAKALESHPUR,
AWARDING COMPENSATION OF RS.10,33,095/- WITH
INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION
TILL ITS REALIZATION.

IN MFA.CROB NO. 72/2024

BETWEEN:

SMT. SAMEENA BANU,
W/O ABDUL RAFIQ,
AGED ABOUT 36 YEARS,
HALESANTHEVERI,
PUMP HOUSE ROAD,
SAKLESHPURA – 573 134.

...CROSS-OBJECTOR

(BY SRI. JWALA KUMAR, ADVOCATE)

AND:

1. DIVISIONAL CONTROLLER,
HASSAN DIVISION,
HASSAN – 573 201.
REP BY ITS CHIEF LAW OFFICER,
KSRTC, CENTRAL OFFICE,
K.H.ROAD,
SHANTHINAGAR,
BENGALURU – 560 027.
2. ABDUL RAFIQ,
S/O SULAIMAN,
AGED ABOUT 42 YEARS,
HALESANTHEVERI,



CNR: KAHC010382762024

NC: 2026:KHC:42261
MFA No. 4575 of 2024
C/W MFA.CROB No. 72 of 2024

PUMP HOUSE ROAD,
SAKLESH PURA – 573 134.

3. THE BRANCH MANAGER,
THE NEW INDIA INSURANCE
COMPANY LTD.,
MOTOR TP CLAIM AND O D CLAIM HUB,
NO. 876/C, 1ST AND 2ND FLOOR,
IN FRONT OF LAKSHMIPURAM
POLICE STATION,
NEAR R.T.O. OFFICE,
LAKSHMIPURAM,
MYSORE – 570 001.

...RESPONDENTS

(BY SRI. BALARAJ A C., ADVOCATE FOR R1,
MS. MAMATHA, S. SHANKAR, ADVOCATE FOR
SRI. A.I. SANMATHI, ADVOCATE FOR R3,
VIDE ORDER DATED 08.06.2026 NOTICE TO R2 IS
DISPENSED WITH)

THIS MFA CROB IS FILED UNDER ORDER XLI RULE 22 OF
THE CPC READ WITH SECTION 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED:05.12.2023 PASSED IN
MVC NO.953/2019 ON THE FILE OF THE SENIOR CIVIL JUDGE
AND ADDITIONAL MACT, SAKALESH PUR, PARTLY ALLOWING
THE CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

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

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



CNR: KAHC010382762024

NC: 2026:KHC:42261
MFA No. 4575 of 2024
C/W MFA.CROB No. 72 of 2024

ORAL JUDGMENT

This appeal and cross-objection by the Corporation as well as the Claimant, assailing the Judgment and Award dated 05.12.2023 passed by the Senior Civil Judge and JMFC, Hassan¹ in MVC No.953/2019.

2. The Corporation is in appeal both on liability as well as quantum. However, the Claimant is only on quantum of compensation.

3. Heard, Sri.A.C.Balaraj, learned counsel appearing for the Corporation, Sri.Jwala Kumar, learned counsel appearing for the Claimant and Ms.Mamatha S.Shankar, learned counsel appearing for Sri.E.I.Sanmathi, learned counsel for the Insurer, in both the matters.

4. The parties are referred to as per their ranking before the Tribunal.

5. On 15.01.2019, when the claimant was proceeding on a motorcycle of her husband bearing

¹ 'the Tribunal', for short



CNR: KAHC010382762024

NC: 2026:KHC:42261
MFA No. 4575 of 2024
C/W MFA.CROB No. 72 of 2024

Registration No.KA-46-K-9205 as a pillion, at about 2:30 pm to 3:00 pm, at Belur bus stop, the driver of the KSRTC Bus bearing Registration No.KA-13-F-2103 came from Basaveshwara Circle in a rash and negligent manner and has taken an abrupt sudden turn, provided in between the road median. In the circumstance, the mirror of the motorcycle came in contact with the body of the bus, due to which, the claimant as well as her husband fell down and both the legs of the claimant came underneath the rear wheels of the bus, resulting in fracture of both the legs and disability of 19% to the whole body as per the doctor.

6. The Tribunal after considering the evidence placed on record, answered Issues framed against the driver of the offending bus, on the premise that a police case was registered against him and awarded total compensation of Rs.10,33,095/-. It is this Judgment and award passed by the Tribunal, is called in question in this appeal and cross-objection, by the Corporation as well as the Claimant.



CNR: KAHC010382762024

NC: 2026:KHC:42261
MFA No. 4575 of 2024
C/W MFA.CROB No. 72 of 2024

7. Sri.A.C.Balaraj, for the corporation with all vehemence submits that the Tribunal has failed to consider Ex.P4 Spot Sketch, which clearly visualizes that rider of the motorcycle has also contributed to the accident. As per the evidence of the driver of the bus, the motorcyclist despite noticing the heavy vehicle taking a turn in the space provided in the median to reach the bus stop, taken a chance to cross the bus and came in contact with the bus, resulting in the accident. In that view of the matter, the Tribunal ought to have saddled contributory negligence at least at the rate of 50% on the rider of the motorcycle. So far as compensation is concerned, learned counsel submits that the Tribunal has awarded exorbitant compensation to a tune of Rs.10,3,095/- and sought to allow the appeal by dismissing the cross-objection filed by the Claimant.

8. In contrast, Sri.Jwala Kumar, learned counsel appearing for the Claimant with same and equal vehemence submits that the bus being a heavy vehicle, the driver of the bus while taking a turn at a median, should have been more



CNR: KAHC010382762024

NC: 2026:KHC:42261
MFA No. 4575 of 2024
C/W MFA.CROB No. 72 of 2024

circumspect and cautious while observing oncoming traffic, which he has failed to take in the case on hand. The driver of the bus in an haste, drove the bus in a rash and negligent manner, which has resulted in an unfortunate incident, wherein the claimant has suffered injuries resulting in disability. In that view of the matter, the Tribunal has properly considered the entire material placed before it and held that it is the driver of the bus who was negligent while driving the bus, as such the same does not require any interference. So far as compensation is concerned, learned counsel submits that the claimant has claimed that she was doing Tailoring work and was earning Rs.30,000/- per month. The Tribunal only on the ground that no documents have been produced to substantiate the income, taken the notional income fixed under the Chart by the Karnataka Legal Services Authority for settling the matters before Lok-Adalath i.e., at Rs.14,000/- per month for the accident occurred in the year 2019. He submits that a private Tailor earning Rs.30,000/- per month would not be expected to maintain records, foreseeing that the same may be essential



NC: 2026:KHC:42261
MFA No. 4575 of 2024
C/W MFA.CROB No. 72 of 2024

to produce in evidence in relation to an unforeseen accident. In that view of the matter, the Tribunal ought to have considered the evidence of the claimant/cross-objector in the absence of any effective cross-examination to discredit her evidence on income and sought to enhance the compensation under all heads, taking into consideration of the fact that she has suffered fracture to both the bones of both the legs, with Degloving injury, which will remain lifelong.

9. Ms.Mamatha S.Shankar, learned counsel appearing for the Insurer of the motorcycle in same equivalence submits that, it is the driver of the bus, who is responsible for the accident in a busy road. He should have been more cautions and circumspect. In that view of the matter, the Tribunal has properly considered and held that the driver of the bus is responsible for the accident.

10. Having considered the rival submissions, this Court has perused the entire appeal paper and cross-objection paper and also the Trial Court record.



CNR: KAHC010382762024

NC: 2026:KHC:42261
MFA No. 4575 of 2024
C/W MFA.CROB No. 72 of 2024

11. On the basis of the contentions and records, the following points would arise for consideration:

- (1) Whether the Tribunal is right in holding that the driver of the bus is responsible in his entirety to the accident?*
- (2) Whether the Corporation as well as the Claimant made out a case either to reduce or enhance the compensation?*

12. My answer to both the questions framed afore are partly in the affirmative for the following:

REASONS

13. Ex.P4 - Spot Sketch, clearly indicates that the incident had occurred close to a divider provided in a median, wherein the bus had taken a turn to enter into a bus stand. The motorcycle admittedly, came from the opposite direction and ventured to cross the bus, while the bus was taking the turn to enter the bus stop. In that view of the matter, both the driver of the bus and the rider of the



CNR: KAHC010382762024

NC: 2026:KHC:42261
MFA No. 4575 of 2024
C/W MFA.CROB No. 72 of 2024

motorcycle are negligent and not adhered to the care and caution expected from them, while they are using the public road. Both the rider as well as driver are obliged under law to honor the right of use of road by both the vehicles. The same is lacking on both the driver of the bus as well as the rider of the motorcycle. In that view of the matter, this Court is of the opinion that if contributory negligence is saddled at 80% on the driver of the bus and 20% on the rider of the motorcycle, the same would meet the ends of justice.

14. So far as compensation is concerned, this Court finds some force in the argument of learned counsel Sri.Jwala Kumar, that an ordinary Tailor would not be expected to maintain books of business, expecting unforeseen accident. In that view of the matter, the amount fixed for the accident occurred in the year 2019 under the Chart supra is in respect of an unskilled labor, cannot be mechanically applied in the present case, as the Tailoring job is a skilled work. Hence this Court proposes to take Rs.500/- per day as income which would be Rs.15,000/- per month.



CNR: KAHC010382762024

NC: 2026:KHC:42261
MFA No. 4575 of 2024
C/W MFA.CROB No. 72 of 2024

15. Having considered the compensation awarded under other heads by the Tribunal when compared to the injuries sustained, and the fact the claimant was in-patient for 30 days and underwent several surgeries including implant, except medical expenses and future medical expenses, the compensation awarded under other heads, requires re-assessment and re-consideration. In that view of the matter, this Court proceeds to re-assess the compensation which is as under:

Sl.No.	Heads	Compensation awarded by the Tribunal Amount in Rs.	Re-assessed compensation by this Court Amount in Rs.
1.	Loss of future income	Rs.7,15,008/-	Rs.7,66,080/- (15,000+40%x12x16x19%)
2.	Pain and Suffering	Rs.20,000/-	Rs.1,00,000/- (20,000 + 80,000)
3.	Loss of income during laid up period	Rs.20,000/-	Rs.60,000/- (15000 x 4)
4.	Towards attendant charges, transportation and miscellaneous expenses	Rs.10,000/-	Rs.35,000/- (10,000+25,000)
5.	Loss of amenities and nutritional food	Rs.10,000/-	Rs.1,00,000/- (10,000+90,000)
6.	Medical expenses	Rs.2,22,087/-	Rs.2,22,087/-
7.	Future medical expenses	Rs.36,000/-	Rs.36,000/-
	TOTAL	Rs.10,33,095/-	Rs.13,19,167/-



CNR: KAHC010382762024

NC: 2026:KHC:42261
MFA No. 4575 of 2024
C/W MFA.CROB No. 72 of 2024

16. Accordingly, the claimant is entitled for reassessed compensation of **Rs.13,19,167/-** (rounded off at **Rs.13,19,500/-**) as against Rs.10,33,096/-, with interest @ 6% per annum from the date of petition till realization.

17. Both the Corporation as well as respondent No.3 - Insurer are liable to pay the reassessed compensation at the rate of 80% : 20% respectively. Accordingly this Court proceed to pass a following:

ORDER

- (i) Both, the Appeal and the Cross-objection are ***allowed in part.***
- (ii) The Judgment and Award dated 05.12.2023 passed by the Senior Civil Judge and JMFC, Hassan in MVC No.953/2019 is modified.
- (iii) The finding of the Tribunal on Issue No.1 regarding negligence is modified, answered partly in affirmative holding that both the driver of the bus and the rider of the motorcycle contributed to the accident and



CNR: KAHC010382762024

NC: 2026:KHC:42261
MFA No. 4575 of 2024
C/W MFA.CROB No. 72 of 2024

fixing 80% negligence on the driver of the bus and 20% on the rider of the motorcycle. The compensation awarded by the Tribunal is also reassessed.

- (iv) The Claimant is entitled for reassessed compensation of **Rs.13,19,500/-**, with interest @ 6% per annum from the date of petition till realization.
- (v) The Corporation and the Insurer - third respondent shall pay their percentage of liability on re-determined compensation deducting the amount that has already been deposited before the Tribunal (only in respect of corporation), along with interest stated supra from the date of petition till realization.
- (vi) The amount in deposit in Corporation appeal, if any, before this court shall be transmitted to the concerned Tribunal forthwith, for disbursement.



CNR: KAHC010382762024

NC: 2026:KHC:42261
MFA No. 4575 of 2024
C/W MFA.CROB No. 72 of 2024

- (vii) The Tribunal upon deposit, shall release 50% of the amount in favour of the claimant after due identification and the remaining 50% shall be deposited in any interest bearing FD with any Nationalized Bank for a period of five years. The bank shall not permit any loan on the FDR except with express order by the Tribunal or court.
- (viii) The Trial Court record shall be transmitted forthwith to the concerned Tribunal without causing any delay.
- (ix) No order as to costs.

Sd/-
(T.M.NADAF)
JUDGE

TKN
List No.: 1 Sl No.: 33