



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 4760 OF 2024

(MV-D)

C/W

MISCELLANEOUS FIRST APPEAL No. 6636 OF 2024

(MV-D)

IN MFA No. 4760/2024

BETWEEN:

1. THE MANAGING DIRECTOR
B M T C, SARIGE BHAVANA
K H ROAD
SHANTHINAGAR
BENGALURU - 560 047.

...APPELLANT

(BY SRI D VIJAYAKUMAR, ADVOCATE)

AND:

SMT. MUNIYAMMA
W/O LATE RAVIKUMAR
SINCE DEAD BY HER LR.s.

1. SRI RAJU
S/O LATE RAVIKUMAR
AGED ABOUT 38 YEARS



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2. PAPAMMA
D/O LATE RAVIKUMAR
AGED ABOUT 33 YEARS.

3. CHANDRAKALA R
D/O LATE RAVIKUMAR
AGED ABOUT 29 YEARS.

ALL ARE R/AT No. 245
CHIKKABANAVARA MEDARAHALLI
BENGALURU - 560 057.

...RESPONDENTS

(BY SRI D NAGARAJA REDDY, ADVOCATE FOR R1 TO R3)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:04.03.2024 PASSED IN MVC No.1128/2021 ON THE FILE OF THE XIII ADDITIONAL SMALL CAUSES JUDGE, ACMM, COURT OF SMALL CAUSES AND MEMBER, MACT-15, BENGALURU AWARDED COMPENSATION OF Rs.21,41,000/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL DEPOSIT.

IN MFA No. 6636/2024

BETWEEN:

SMT. MUNIYAMMA
W/O LATE RAVIKUMAR,
SINCE DECEASED BY HER LRS.,

1. RAJU R
S/O LATE RAVIKUMAR
AGED ABOUT 38 YEARS.
2. PAPAMMA
D/O LATE RAVIKUMAR
AGED ABOUT 37 YEARS.



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3. CHANDRAKALA R
D/O LATE RAVIKUMAR
AGED ABOUT 29 YEARS.

ALL ARE R/AT No.245
CHIKKABANAVARA, MEDARAHALLI
BENGALURU-560 057.

...APPELLANTS

(BY SRI NAGARAJA REDDY D, ADVOCATE)

AND:

THE MANAGING DIRECTOR
BMTc SARIGE BHAVANA
K H ROAD, SHANTHINAGAR
BENGALURU-560 047.

...RESPONDENT

(BY SRI D VIJAYAKUMAR, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:04.03.2024 PASSED IN MVC No.1128/2021 ON THE FILE OF THE ACMM, COURT OF SMALL CAUSES AND MEMBER, MACT-15, BENGALURU CITY, (SCCH-15), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR



ORAL JUDGMENT

1. MFA No. 4760/2024 is filed by the Bengaluru Metropolitan Transport Corporation (for short 'Corporation') challenging the liability and quantum of compensation. MFA No. 6636/2024 is filed by the claimants challenging the contributory negligence on the part of the deceased assessed by the Tribunal at 10% in the judgment and award dated 04.03.2024 passed in MVC No. 1128/2021 by the XIII Additional Small Causes Judge and Member, MACT, Bengaluru (SCCH-15).

2. Even though the matters are listed today for 'Admission', with the consent of the learned counsel appearing for both the parties they are taken up for final disposal.

3. Facts leading to the filing the claim petition are, that on 12.02.2021 at about 07.50 pm the deceased Venkatesh was proceeding on Bajaj Chetak Scooter bearing registration No. KA-04-V-8194. When he reached near Nagamariyamma Temple, Kamagondanahalli main



road, Bengaluru, BMTC bus bearing registration No. KA-01-F-4342 came in a rash and negligent manner and dashed against the scooter of the deceased. Due to the impact, said Venkatesh sustained severe head and bodily injuries. He was shifted to the hospital and on examination, the Doctors declared him as dead.

4. Claim petition was filed by the mother of the deceased contending that the accident occurred due to the rash and negligent driving by the driver of the BMTC bus. The deceased was aged 33 years and was a bachelor. He was doing mason work and earning Rs.18,000/- per month.

5. Respondent – BMTC in the statement of objections have denied the age, avocation and income of the deceased and have also denied the rash and negligent driving by the driver of the offending vehicle. They contended that the deceased was not wearing helmet and entered into the ditch, lost control over the two wheeler, dashed against the right side body of the bus at the back



and exposed himself for the alleged accident. The respondent – BMTC, on humanitarian grounds had paid ex-gratia in a sum of Rs.25,000/- to the claimant. With this the respondent – BMTC prayed for dismissal of the claim petition.

6. On the basis of the said pleadings the Tribunal framed the following issues:

"1. Whether the Petitioners prove that Sri Venkatesh R S/o Late Ravikumar was died in the Road Traffic Accident which occurred on 12.02.2021 at about 7.50 p.m., near Nagamariyamma temple, Kamagondanahalli main road, Kamagondanahalli, Bengaluru, due to the rash and negligent driving of the BMTC Bus bearing Reg. No.KA-01-f-4342 by its driver?

2. Whether the Petitioners further prove that they are the legal heirs of Venkatesh R S/o Late Ravikuma?

3. Whether the Petitioners are entitled for the compensation as prayed for? If yes, what is the quantum and who is liable to pay?

4. What Order or Award?"

7. Original claimant died and her legal heirs, namely, son and two daughters were brought on record as



claimant Nos. 1(a - c). Claimant No. 1(a) has been examined as P.W.1 and got marked Ex.P.1 to Ex.P.18 and got examined eye witness as P.W.2. Driver of the BMTC bus was examined as R.W.1 and no documents were marked. The Tribunal after hearing arguments on both sides and appreciating evidence on record has answered issue Nos. 1 and 3 partly in affirmative, issue No. 2 in affirmative and awarded compensation under different heads as under:

1.	Loss of consortium	Rs.40,000.00
2.	Loss of love and affection	Rs.50,000.00
3.	Loss of estate	Rs.15,000.00
4.	Funeral expenses	Rs.15,000.00
5.	Expenses of transportation of dead body	Rs.5,000.00
6.	Loss of dependency	Rs.20,16,000.00
	TOTAL	Rs.21,41,000.00

8. The Tribunal has also awarded interest at the rate of 6% p.a. from the date of petition till the date of



realization. The Tribunal has held that the deceased had also contributed to the extent of 10% to the accident and therefore, directed the Corporation to pay 90% of the compensation after deducting Rs.25,000/- paid as ex-gratia to the claimant. The Corporation has challenged its liability and also quantum of compensation awarded. Claimants have also filed appeal challenging 10% contributory negligence on the part of deceased as held by the Tribunal.

9. Heard learned counsel for Corporation and learned counsel for claimants.

10. Learned counsel for Corporation would contend that the IMV report - Ex.P.6 indicate that there were no damages on both the vehicles. P.W.2 – eye witness and R.W.1 both have stated that the deceased was not wearing helmet at the time of accident. P.W.2 has admitted that there were ditches near the spot of accident. There was no occasion for the driver of the bus to take his bus on extreme right side of the road and dashing against



the scooter of the deceased. The very fact that both the vehicles have not sustained any damages itself indicate that the deceased himself fell down due to the ditches on the road and sustained injuries. Therefore, the Tribunal has erred in holding that the Corporation is liable to the extent of 90% to pay the compensation amount. He further contends that the claimants are brother and sisters of the deceased and they were not dependent on the deceased. Therefore, they are not entitled to 'loss of dependency'. Original claimant died and therefore, her legal representatives are not entitled to 'loss of estate'. Compensation awarded on all heads are on higher side. With this, he prayed to allow the appeal.

11. Learned counsel for claimants would contend that the Tribunal has saddled 10% contributory negligence on the part of the deceased only on the ground that he was not wearing helmet at the time of accident. He further submits that mere non-wearing of helmet is not cause for the accident. Filing of charge sheet against the driver of



the bus clearly indicates that the accident occurred due to the sole negligence on the part of the driver of the bus. The Tribunal ought to have held that the entire negligence is on the part of the driver of the bus and saddled the entire liability on the Corporation. He further submits that compensation awarded under all heads is just and proper. He submits that claim petition was made by the mother of the deceased who was dependent on the deceased, subsequently, she died during the pendency of the claim petition and her legal representatives, namely son and two daughters were brought on record and they are also the brother and sisters of the deceased.

12. Having heard learned counsel for the parties, this Court has perused the impugned judgment, award and trial Court records.

13. Considering the grounds urged, the following points arise for consideration in this appeal.

- i) Whether the Tribunal is justified in holding that the accident occurred due to the rash and



negligent driving by the driver of the BMTC bus and that the deceased has contributed 10% to the accident?

ii) Whether the compensation awarded by the Tribunal is just and proper?

14. **Reasons on point No. (i)** : Ex.P.9 is copy of the charge sheet. Charge sheet has been filed against the driver of the BMTC bus for offence under Sections 279, 304(A) of IPC. Charge sheet filed against the deceased is for violation of Rule 230(A) of Karnataka Motor Vehicles Rules for not wearing helmet. In column No. 17 of the charge sheet it is stated that the driver of the BMTC bus drove the bus from Kamagondanahalli in high speed and in rash and negligent manner and dashed to the scooter of the deceased at the time when the deceased took turn in the cross road and entered the main road. Charge sheet is not challenged by the driver of the BMTC bus and driver of the bus who has been examined as R.W.1 has admitted that he has not challenged the charge sheet.



15. The Corporation has also paid ex-gratia of Rs.25,000/- to the dependent of the deceased after the accident as he died in the accident. Charge sheet filed against the deceased is for violation of Rule 230(A) of Karnataka Motor Vehicles Rules. Said violation is with regard to non-wearing of helmet. Mere non-wearing of helmet does not cause accident and it cannot be termed as negligent act on the part the deceased at the time of driving. For violation of the said Rule penalty of fine is provided.

16. Ex.P.3 is mahazar of the spot of accident which is enclosed with a sketch. A perusal of the said sketch indicates that the accident has taken place on the right side of the road wherein the bus was moving. P.W.2 is an eye witness to the incident and he has given evidence that the accident occurred due to the rash and negligent driving by the driver of the BMTC bus. Ditches on the road, as contended by the learned counsel for the Corporation, are not found in the spot mahazar or in the sketch



enclosed to it. Even though P.W.2 has admitted that there were some ditches on the road where were those ditches located has not been elicited in his cross-examination.

17. R.W.1 – driver of the BMTC bus in his examination-in-chief has stated that the deceased who turned to the left side in speed landed in to the cable ditch, lost control over the two wheeler and dashed to the right side body of the bus at the back. R.W.1 in his cross-examination has admitted the suggestion that the accident occurred between the bus and the two wheeler of the deceased and FIR has been registered against him, final report and charge sheet have been filed and he has not challenged the charge sheet.

18. Considering the above aspects, the Tribunal has erred in holding that there was contributory negligence on the part of the deceased to the extent of 10% for not wearing helmet at the time of incident. The Tribunal ought to have saddled the entire liability on the Corporation as entire rash and negligent driving is alleged against the



driver of the BMTC bus. Therefore, Corporation is liable to pay the entire compensation. Accordingly, point No. (i) is answered.

19. **Reasons on point No. (ii)** : The deceased was aged 33 years as on the date of accident and he was a bachelor. Claimant was the mother of the deceased. She died during the pendency of the claim petition and her legal representatives, son and two daughters were brought on record and they are the brother and sisters of the deceased. Said legal representatives of original claimant only represent the original claimant in the claim petition. The claimant being the mother of the deceased was dependent on the deceased who was a bachelor. Considering that the accident occurred in the year 2021, the Tribunal has rightly taken the notional income at Rs.15,000/- per month, added 40% towards future prospects, deducted 50% towards personal expenses of the deceased and rightly calculated 'loss of dependency' in a sum of Rs.20,16,000/-. The claimant being the



mother of the deceased is entitled to loss of consortium in a sum of Rs.40,000/- with 10% escalation, i.e., Rs.44,000/-. As consortium is awarded she is not entitled to 'loss of love and affection' separately as awarded by the Tribunal in a sum of Rs.50,000/-. Claimant is entitled to 'loss of estate' in a sum of Rs.15,000/- and for 'funeral expenses' in a sum of Rs.15,000/- with 10% escalation. Therefore, the claimant is entitled to 'loss of estate' in a sum of Rs.16,500/- and 'funeral expenses' in a sum of Rs.16,500/-. Claimant is not entitled to Rs.5,000/- as awarded by the Tribunal under the head 'transportation of dead body'.

20. In view of the above, the total compensation under different heads would be:

1.	Loss of consortium	Rs.44,000.00
2.	Loss of estate	Rs.16,500.00
3.	Funeral expenses	Rs.16,500.00
4.	Loss of dependency	Rs.20,16,000.00
	TOTAL	Rs.20,93,000.00



21. Claimant being the mother of the deceased, as on the date of claim petition, she is entitled to total compensation of Rs.20,93,000/-. In view of death of claimant, her legal representatives are entitled to said compensation with interest. The Tribunal has rightly awarded interest at the rate of 6% p.a. from the date of petition till the date of realization. The Corporation is liable to pay entire compensation of Rs.20,93,000/- with interest to the legal representatives of the claimant. Accordingly, point No. (ii) is answered.

22. In view of the above, the following;

ORDER

- I. Both the appeals are allowed in part.
- II. The finding of the Tribunal with regard to contributory negligence on the part of the deceased at 10% is set aside.



- III. The Corporation is liable to pay the entire compensation with interest deducting Rs.25,000/- which was paid as ex-gratia by the Corporation to the claimant.
- IV. Claimants/legal representatives of the original claimant are entitled to total compensation of Rs.20,68,000/- with interest at the rate of 6% p.a. from the date of petition till the date of realization.
- V. The Corporation shall deposit the entire compensation with interest before the Tribunal, excluding the amount already deposited, within six weeks from this day failing which it is liable to pay interest at the rate of 9% p.a. from this day till the date of payment.
- VI. Share of compensation among the legal representatives of original claimant [claimant Nos. 1 (a - c)] as determined by the Tribunal shall remain undisturbed.



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VII. Amount in deposit is ordered to be transmitted to
the Tribunal.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

LRS
List No.: 1 Sl No.: 53