



CNR: KAHC010666082023

NC: 2026:KHC:49558
MFA No. 8385 of 2023
C/W MFA No. 7533 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO.8385 OF 2023(MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.7533 OF 2023(MV-I)

IN MFA No. 8385/2023

BETWEEN:

SHRI PURUSHOTHAMA M.L.,
S/O LAKSHMINARAYANA,
AGED ABOUT 27 YEARS,
R/AT NO 68, 2ND CROSS,
2ND MAIN, AGS LAYOUT,
BSK 3RD STAGE,

PERMANENT ADDRESS:

MALLADEVANAHALLI DODDA MALLIGE POST,
MAYASANDRA HOBLI, TURVEKERE TALUK,
MAYASANDRA, TUMKUR - 572 221.

(BY SRI. GURUDEV PRASAD K T., ADVOCATE)

...APPELLANT

AND:

THE MANAGING DIRECTOR,
K.S.R.T.C, BENGALURU CENTRAL OFFICE,
M.H. ROAD, SHANTHINAGAR,
BENGALURU - 560 027.

...RESPONDENT

(BY SRI. G LAKSHMEESH RAO, ADVOCATE)

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Location:
HIGH COURT
OF
KARNATAKA



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MFA No. 8385 of 2023
C/W MFA No. 7533 of 2023

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:03.07.2023
PASSED IN MVC NO.4491/2022 ON THE FILE OF THE III
ADDITIONAL JUDGE, COURT OF SMALL CAUSES, MEMBER,
MACT, BENGALURU, (SCCH-18), PARTLY ALLOWING THE
CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

IN MFA NO. 7533/2023

BETWEEN:

THE MANAGING DIRECTOR,
KSRTC, BENGALURU CENTRAL OFFICE,
K.H. ROAD, SHANTHINAGAR,
BENGALURU - 560 027.
REP BY ITS CHIEF LAW OFFICER.

...APPELLANT

(BY SRI. G LAKSHMEESH RAO, ADVOCATE)

AND:

SHRI PURUSHOTHAMA M.L.,
S/O LAKSHMINARAYANA,
AGED ABOUT 27 YEARS,
R/AT NO 68, 2ND CROSS,
2ND MAIN, AGS LAYOUT,
BSK 3RD STAGE,

ALSO AT:
MALLADEVANAHALLI DODDA MALLIGE POST,
MAYASANDRA HOBLI, TURVEKERE TALUK,
MAYASANDRA, TUMKUR - 572 221.

...RESPONDENT

(BY SRI. GURUDEV PRASAD K T., ADVOCATE)

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THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED:03.07.2023 PASSED IN MVC NO.4491/2022 ON THE FILE OF THE III ADDITIONAL JUDGE AND MACT, COURT OF SMALL CAUSES, MEMBER, BENGALURU, (SCCH-18), AWARDED COMPENSATION OF RS.4,69,083/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL REALIZATION.

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

CORAM: HON'BLE MR. JUSTICE GEETHA K.B.

COMMON ORAL JUDGMENT

MFA.No.8385/2023 is filed by the claimant under Section 173(1) of the Motor Vehicles Act, 1988 (for short, 'M.V. Act') not satisfied with the quantum of compensation and MFA.No.7533/2023 is filed by the KSRTC, challenging the negligence and quantum of compensation awarded in MVC.4491/2022 dated 03.07.2023 on the file of the learned III Additional Judge and Motor Accident Claims Tribunal, Court of

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Small Causes, Bengaluru (SCCH-18) (in short 'the Tribunal')

2. Parties would be referred with their ranks, as they were before the Tribunal for the sake of convenience and clarity.

3. The case of the claimant before the Tribunal in nutshell is that on 04.02.2021 at about 01.55 p.m., the claimant was the rider of Motorcycle bearing registration No.KA-06/HH-0428 with the pillion rider by name Srinivas on Kanakapura Main Road, Jayanagar 6th Block, Bengaluru, from Basavanagadi side towards Jayanagar; at that time, the KSRTC bus bearing registration No.KA-42/F-1744 came with high speed from the opposite direction i.e., from Jayanagar to Basavanagudi and dashed against the motorcycle and thereby, caused the accident. Due to the accident, the claimant has sustained grievous injuries. He has

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taken treatment at Digvijaya Hospital as inpatient and thus, claimed compensation under different heads.

4. After service of notice, respondent/KSRTC appeared through its counsel and filed objections to the petition, wherein it has denied the averments made in the petition in *toto*. It took further contention that the accident has taken place due to the rash and negligent riding of the rider of the motorcycle and there is no rashness or negligence on the part of the driver of the bus. Hence, prayed for dismissal of the petition.

5. After framing issues, recording evidence and hearing arguments of both sides, the Tribunal came to the conclusion that the accident has taken place due to rash and negligent driving of the driver of the KSRTC bus and the claimant is entitled for total compensation of **Rs.4,69,083/-** under following different heads:

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SI No	Compensation Heads	Compensation Head
1	Pain and Suffering	Rs.50,000/-
2	Loss of income during laid-up period and rest period	Rs.15,000/-
3	Medical Expenses	Rs.1,34,283/-
4	Attendant, Nourishment and Conveyance Charges	Rs.10,000/-
5	Loss of future income	Rs.2,44,800/-
6	Loss of Amenities	Rs.15,000/-
7	Future Medication	Nil
	Total	Rs.4,69,083/-

6. Not satisfied with the said judgment, the claimant has filed MFA No.8385/2023 and challenging the quantum and negligence, the KSRTC has filed MFA No.7533/2023.

7. The learned counsel Sri G Lakshmeesh Rao for respondent/KSRTC would submit that the charge-sheet averments, Ex.P.3 and Ex.P.4 i.e., spot panchanama and spot sketch coupled with admission of claimant in his cross-examination and the evidence of driver of the KSRTC bus clearly establish that there is contributory negligence on the side of rider of the motorbike.

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8. Learned counsel for the claimant Sri Gurudev Prasad K. T would submit that the tyre marks are not noted in the spot sketch and spot panchanama. Considering the available evidence, the Tribunal has rightly come to the conclusion that the accident has taken place due to rash and negligent driving of driver of the KSRTC bus and not because of the riding of motorbike by the claimant.

9. The learned counsel for the claimant would submit that the compensation awarded by the Tribunal on the head 'loss of income during laid-up period' and 'loss of amenities' is on the lower side and hence, prayed for enhancement of compensation.

10. The learned counsel for the respondent would submit that as per the complaint averments, the complainant was working as an accountant and not as an electrician as urged in the claim petition. No document is produced to show that, he was working as an electrician. Even though in Ex.P.8, it is mentioned that there is

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fracture of Scapula; no treatment is given for it by the said doctor. The X-ray report is not furnished to say that there is fracture of Scapula bone. Furthermore, the claimant has produced the prescription and medical bill as per Ex.P.11 and 12 in respect of treatment taken to his tooth, which is not the injury suffered by him in the road traffic accident as per Ex.P.6. Furthermore, the evidence of doctor who assessed the disability is not reliable because he is not the treated doctor. Hence, prayed for reduction of quantum.

11. Having heard arguments of both sides and verifying the appeal papers along with trial Court records; the points that arise for consideration are:

"(1) Whether the KSRTC establishes there is contributory negligence on the part of the rider of the motorbike in causing the accident?"

(2) Whether the compensation awarded by the Tribunal requires modification?"

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Finding of this Court on point Nos.1 & 2 is in
'Affirmative' for the following:

REASONS

12. The claimant has taken contention that on 04.02.2021 at about 01.55 p.m., when he was the rider of the motorcycle, along with one pillion rider-Srinivas, the KSRTC bus came from the opposite side and dashed against him and thereby caused the accident.

13. In the complaint, the claimant has stated that while he was riding the motorbike from Basavanagudi side towards Yedyur lake; a luggage Auto-Rickshaw was moving in front of him; it went on left side and when he was going on to the right side of the luggage Auto-Rickshaw in the motorcycle, KSRTC bus came from opposite side and dashed against him and caused the accident.

14. In this regard, claimant in his cross-examination admitted that he has given statement before

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the police that he had over taken luggage Auto-Rickshaw and then the accident took place. He denied the suggestion that he had crossed the White strip and at that time, the accident took place. However, in the spot sketch and also in the spot panchanama, it is clearly mentioned that, he has crossed the White strip about a feet because there is admission from the claimant that the averments made in the spot sketch are correct; there is white strip in the middle of the road; the width of the road is 50 feet; the accident has taken place at 26 feet from the side of the motorcycle rider.

15. RW1-the driver of the bus has stated his contention in his affidavit evidence. In the cross-examination, he admitted that in the complaint, it is narrated that after luggage Auto- Rickshaw has taken left turn, two-wheeler had been on its back. However, it is only the averment made in the complaint. But as discussed above, complainant himself admitted that he had overtaken the luggage Auto-Rickshaw and then the

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accident has taken place. Hence, nothing was elicited in the cross-examination of RW1 to say that the negligence is entirely on the driver of the KSRTC bus.

16. It is to be noted here that the KSRTC bus is a big vehicle, whereas motorcycle is a small vehicle and thus, the driver of the KSRTC bus has to take more precaution while driving the vehicle than the motorcyclist.

17. Considering the aforesaid facts, this Court opines that there is 20% negligence on the part of the rider of the motorcycle in causing the accident and 80% negligence on the part of the driver of KSRTC bus in causing the accident.

18. On perusal of Ex.P.6-wound Certificate, it is noticed that the claimant has sustained totally three injuries; injury No.1 is an abrasion simple injury on his right Elbow; Injury No.2 is dislocation of right 1st Carpo Metacarpal; Injury No.3 is no fracture but bone deep Laceration between the left eyebrow and nose measuring 2x2cm and the doctor opined that it is grievous in nature.

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Thus, the claimant has sustained two grievous injuries and one simple injury.

19. In Ex.P.8-discharge summary issued by Digvijaya Hospital, it is noted that the claimant came to the hospital with the history of road traffic accident with right hand left Carpo Metacarpal joint dislocation with left Scapula fracture. However, the Radiologist report is not produced to show that, there is fracture of this Scapula bone. Further, on perusal of Ex.P.8, no treatment is given to the claimant for fracture of Scapula bone and fracture of Scapula bone is not mentioned in Ex.P.6. Hence, it is to be held that there is only one dislocation of right Metacarpal bone; K-wire is fixed for it and he was inpatient in the hospital for 3 days.

20. Ex.P.11 is the prescription chit dated 11.02.2021 issued by Yash Multi Specialty Dental Clinic and Ex.P.12 is receipt of Rs.60,000/- dated 18.02.2021 in respect of root canal treatment. These documents are not pertaining to the treatment taken by the claimant in

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respect of accidental injuries suffered by him. Hence, he is not entitled to this Rs.60,000/- medical bill out of medical expenses. Thus, the claimant is entitled for remaining amount of Rs.74,283/- (Rs.1,34,283 - Rs.60,000 = Rs.74,283/-) towards 'medical expenses'.

21. The claimant has sustained only two grievous injuries; they are not on major bones. Hence, the compensation awarded at Rs.50,000/- towards 'pain and suffering' by the Tribunal is on the higher side, and it shall be Rs.30,000/-; as far as 'loss of amenities', 'loss of income during laid-up period' awarded by the Tribunal at Rs.15,000/- each and 'Attendant, Nourishment and Conveyance Charges' at Rs.10,000/- requires no interference.

22. In the complaint, the complainant has stated that, he was working as an accountant at Ledger Service Private Limited, Basavanagudi as on the date of accident, but only in the claim petition and evidence, he has stated that he was working as an electrician. However, no



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document is produced to show that he is a skilled labourer and having any qualification to do the work of an electrician. Hence, his job is to be considered as an accountant.

23. PW2-Doctor has given evidence that, there is 22% disability of left upper limb and 11% to the whole body. He has stated that, there is history of inability to hold objects light weight, history of inability to work as an Electrician. He examined him and found that there is some restriction in the mobility of left hand compared to the right hand. However, as discussed above, there is no evidence to show the fracture of Scapula of left hand to say that, there is disability to the claimant to the left hand. The doctor has only stated about disability in respect of Scapula bone, which is not at all established in the present case. Hence, there is no disability to the claimant as stated by PW2. Hence, claimant is not entitled to 'loss of future earning capacity' of Rs.2,44,800/-.

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24. Considering the injuries suffered by the claimant and taken treatment for 3 days as inpatient in the hospital, the claimant is not entitled for any enhancement under any head. On the other hand, the compensation awarded by the Tribunal is to be reduced. Thus, claimant is entitled for total compensation of Rs.1,44,283/- under following heads:

SI No	Heads	Compensation
1	Pain and Suffering	Rs.30,000/-
2	Loss of income during laid-up period	Rs.15,000/-
3	Medical Expenses	Rs.74,283/-
4	Attendant, Nourishment and Conveyance Charges	Rs.10,000/-
5	Loss of future income	NIL
6	Loss of Amenities	Rs.15,000/-
7	Future Medication	NIL
	Total	Rs.1,44,283/-

25. Hence, this Court passes the following:

ORDER

a) MFA No.8385/2023 filed by the claimant under Section 173(1) of the Motor Vehicles Act, 1988 by the claimant is ***dismissed***.

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- b) MFA No.7533/2023 filed by the KSRTC under Section 173(1) of the Motor Vehicles Act, 1988 is ***allowed in part.***
- c) The Judgment and award passed in MVC.4491/2022 dated 03.07.2023 on the file of the learned III Additional Judge and Motor Accident Claims Tribunal, Court of Small Causes, Bengaluru (SCCH-18) is modified, holding that the claimant is entitled for total compensation of **Rs.1,44,283/-** as against Rs.4,69,083/- awarded by the Tribunal.
- d) The respondent is directed to deposit 80% of the total compensation amount with interest @ 6% per annum from the date of petition till realization within eight weeks from the date of receipt of the certified copy of the order.
- e) Amount in deposit, if any, be transmitted to the Tribunal.

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f) No order as to costs.

g) Draw modified award accordingly.

h) Registry to transmit the TCR to the Tribunal
forthwith.

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(GEETHA K.B.)
JUDGE

RR,SPV
List No.: 1 Sl No.: 31