HC-KAR

NC: 2026:KHC:60496
MFA No. 374 of 2025
C/W MFA No. 6230 of 2025

CNR: KAHC010024412025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 374 OF 2025 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 6230 OF 2025 (MV-D)

IN MFA No. 374/2025

BETWEEN:

THE DIVISIONAL MANAGER
B.M.T.C., J.K. ROAD,
SHANTHINAGAR,
BENGALURU - 560 027.
REPRESENTED BY IT'S CHIEF LAW OFFICER.

...APPELLANT

(BY SRI. DABALI FAKKIRAPPA SHIDRAMAPPA, ADVOCATE)

AND:

1. SMT. ANJEER PATIL
W/O LATE KAMALAKAR @ KAMALAKAR
INDRAJIT PATIL,
AGED ABOUT 54 YEARS,
R/AT NO. 13/4, 3RD CROSS,
SUBEDAR PALYA,
YESHWANTHPURA POST,
BENGALURU-YESHWANTHPURA,
BENGALURU - 560 022.

2. SMT. DAIVSHALA UMESH SALUNKE,
D/O LATE KAMALAKAR INDRAJIT PATIL @
KAMALAKAR, AGE MAJOR,
R/AT SALEGAON, SALEGAON TALUK,

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LOHARA, SALEGAON, OSMANABAD,
MAHARASTRA - 413 604.

3. SMT. DEEPALI BHAIRU CHAVAN,
W/O BAIRU CHAVHAN,
D/O LATE KAMALAKAR INDRAJIT PATIL @
KAMALAKAR, AGE MAJOR,
R/AT KARANJHIGAON, OSMANABAD,
DHANURI, MAHARASTRA - 413 604.

4. SMT. RUPALI PRAFULLA SONAWANE,
W/O PRAFULLA SONAWANE,
D/O LATE KAMALAKAR INDRAJIT PATIL @
KAMALAKAR, AGE MAJOR,
R/AT MOGARGA, TALUK AUSA,
MOGRAGA, LATUR MOGARA,
MAHARASTRA - 413 516.

…RESPONDENTS

(BY SRI. GURUDEVA PRASAD K.T, ADVOCATE FOR R1;
R2 - DAIVSHALA UMESH SALUNKE - SERVED;
R3 - DEEPALI BHAIRU CHAVAB - SERVED;
R4 - RUPALI PRAFULLA SONAWANE - SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 21.10.2024 PASSED IN MVC NO. 592/2022 ON THE FILE OF THE XI ADDITIONAL SMALL CAUSES JUDGE AND ACJM, COURT OF SMALL CAUSES, MEMBER, MACT-12, BENGALURU (SCCH-12), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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SHIVASHANKAR BASAPPA
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JUDGE, HIGH COURT OF KARNATAKA

IN MFA NO. 6230/2025

BETWEEN:

SMT. ANJEER PATIL
W/O LATE KAMALAKAR @ KAMALAKAR
INDRAJIT PATIL
AGED ABOUT54 YEARS,
RESIDING AT NO.13/4, 3RD CROSS
SUBEDAR PALYA, YESHWANTHPURA POST
BENGALURU-YESHWANTHPURA,
BENGALURU - 560 022.

...APPELLANT

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

AND:

1. THE DIVISIONAL MANAGER
BMTC, J.K. ROAD, SHANTHINAGAR
BENGALURU - 560 027.

2. SMT. DAIVSHALA UMESH SALUNKE
D/O LATE KUMALAKAR INDRAJIT PATIL
@ KAMALAKAR, AGED ABOUT 30 YEARS
R/AT SALEGAON, SALEGAON TQ,
LOHARA, SALEGAON, OSMANABAD,
MAHARASTRA - 413 604.

3. SMT. DEPALI BAIRU CHOWHAN
W/O BHAUIREU CHAVHAN
D/O LATE KAMALAKAR INDRAJIT PATIL @
KAMALAKAR, AGED ABOUT 28 YEARS
R/AT KARANJHIGAON
OSMANABAD, DHANURI
MAHARASATRA - 413 604.

4. SMT. RUPALI PRAFULLA SONWANE
W/O PRAFULLA SONWANE
D/O LATE KAMALAKAR INDRAJIT PATIL @
KAMALAKAR, AGED ABOUT 26 YEARS
R/AT MOGARGA, TALUK AUSA, MOGRAGA

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LATUR MOGARA, MAHARASTRA - 413 516.

...RESPONDENTS

(BY SRI. DABALI FAKKIRAPPA SHIDRAMAPPA, ADVOCATE
FOR R1;
R2 - DAIVSHALA UMESH SALUNKE - SERVED;
R3 - DEEPALI BHAIRU CHAVAB - SERVED)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.21.10.2024 PASSED IN MVC NO. 592/2022 ON THE FILE OF THE XI ADDITIONAL SMALL CAUSES JUDGE AND ACJM, COURT OF SMALL CAUSES, MEMBER, MACT-12, BENGALURU SCCH-12, 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

Miscellaneous First Appeal No.374/2025 is filed by BMTC challenging the Judgment and Award and Miscellaneous First Appeal No.6230/2025 is filed by the claimant seeking enhancement of compensation awarded in the Judgment and Award dated 21.10.2024 passed in

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MVC No.592/2022 by XI Additional Small Causes Judge and Member, MACT-12, Bengaluru (SCCH-12).

2. Even though the matters are listed today for admission, with the consent of both the learned counsel appearing for the BMTC and learned counsel appearing for the claimant, the matter is taken up for disposal.

3. The claimant made a claim petition seeking for award of compensation for the death of her husband Kamalakar Indrajit Patil @ Kamalakar in a road traffic accident occurred on 16.01.2022 contending that the accident occurred due to rash and negligent driving by the driver of BMTC bus bearing registration No.KA-57-F-2919.

4. The Tribunal recorded the evidence adduced by the parties and upon appreciating the evidence on record, assessed the compensation and awarded the compensation under various heads as under:

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Sl. No.	Particulars	Amount
1.	Loss of dependency	Rs. 13,36,500/-
2.	Loss of love and affection	Rs. 50,000/-
3.	Loss of consortium to petitioner Nos.1 to 4 (Rs.44,000/- each)	Rs. 1,76,000/-
4.	Loss of estate	Rs. 16,500/-
5.	Funeral expenses	Rs. 16,500/-
	Total	**Rs. 15,95,500/-**
	Contributory negligence on part of the deceased to the extent of 50%	Rs. (-) 7,97,750/-
	Grand Total	**Rs. 7,97,750/-**
	Interim compensation already received by petitioner	Rs. (-) 25,000/-
	Total compensation payable	**7,72,750/-**

5. The Tribunal has held that the deceased has contributed to the accident and has assessed his contributing negligence at 50% and awarded only 50% of the compensation assessed with interest at the rate of 6% per annum from the date of petition till realisation and directed the BMTC to pay the compensation amount. The BMTC has challenged the said Judgment and Award on the ground that the entire negligence is on the part of the

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deceased and the compensation awarded is on higher side. The claimant has filed the appeal challenging contributory negligence attributed to the deceased and seeking enhancement of the compensation awarded.

6. Heard the learned counsel appearing for BMTC and learned counsel appearing for the appellants.

7. Learned counsel appearing for BMTC would contend that the entire negligence is on the part of the deceased as he jumped from the divider wall on the road suddenly, due to which the accident took place. There is no any pedestrian zebra crossing at the spot of the accident. The road is meant only for the movement of the bus. Ex.P4 - sketch later indicates that the accident occurred on the road by the side of the divider wall. He further contended that respondents Nos.2 to 4 before the Tribunal are the married daughters of the deceased and they are not dependents and therefore deductions taken at 1/4th is not proper and deductions at the most can be

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taken at 1/3rd. He further submits that the claimant and respondent Nos.2 to 4 are not entitled to compensation towards loss of love and affection as awarded by the Tribunal in a sum of Rs.50,000/- since loss of consortium is awarded to claimant and respondent Nos.2 to 4. He further submits that the age of the deceased as per the Aadhar Card is seventy one (71) years and the Tribunal has erred in taking the age of the deceased as fifty nine (59) years based on the police documents. With these, he prayed to allow the appeal filed by the BMTC.

8. Learned counsel for the claimant would contend that the accident occurred due to the sole negligence on the part of the bus driver. The deceased after purchasing vegetables was standing by the side of the road. At that time, the driver of the bus suddenly took turn in the road and dashed to the deceased. Due to which, he sustained injuries and succumbed to the injuries. The entire rash and negligent driving is on the part of the driver of the bus and the Tribunal erred in holding that the deceased has

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contributed to the accident. He further submits that the notional income fixed for the year 2022 is Rs.15,500/- and the said income is to be taken as against Rs.15,000/- taken by the Tribunal. With these, he prayed to allow the appeal filed by the claimant.

9. Having heard the learned counsel appearing for BMTC and learned counsel appearing for the claimant, the Court has perused the impugned Judgment, Award and trial Court records.

10. The following points arises for consideration:

I) Whether the Tribunal is justified in holding that the deceased has contributed to the accident and assessed his contributory negligence at 50%?

II) The compensation awarded by the Tribunal is just and proper?

REASONS

11. **POINT NO.I :** The accident occurred on 16.01.2022 at about 09:45 p.m. Ex.P11 is the charge sheet and it is filed against the driver of the bus for rash

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and negligent driving for offences punishable under Sections 279 and 304(A) of Indian Penal Code. Ex.P4 is the sketch of the spot of the accident, wherein spot of the accident is shown by the side of the divider wall. Ex.R4 - photographs are of the spot of the accident. There is a divider wall in between road and the footpath wherein vegetable vendors sell the vegetables. There is no zebra crossing at the spot. There is no footpath for pedestrians at the spot. The accident occurred on the road and it is by the side of divider. R.W.1 is the driver of the bus and he has stated in chief examination that deceased jumped from a heavy wall and walking on the road without observing the movement of the bus. The said aspect clearly indicates that the deceased was on the road and the bus dashed him. Considering that the spot is not meant for passing of pedestrians and it is only meant for moving of the buses/vehicles. There is a contributory negligence on the part of the deceased. The said contributory negligence on the part of the deceased is

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lesser than the negligent driving of the driver of the bus. The driver of the bus ought to be very careful while taking the turn of the bus on the road and he ought to have observed the pedestrians. If the pedestrians suddenly entered the road, he ought to have applied brake in order to avoid the incident. Therefore there is more contributory negligence on the part of the driver of the bus. Therefore the contributory negligence on the part of the deceased is assessed at 10% and the contributory negligence on the part of the driver of the bus is assessed at 90%. Accordingly, ***point No.I*** is answered.

12. **POINT NO.II :** The Tribunal has taken the age of the deceased as fifty nine (59) years. P.W.1 - wife of the claimant has stated that the deceased was aged fifty nine (59) years at the time of the incident. Inquest Mahazar indicates that the age of the deceased was fifty nine (59) years and statement of the wife of the deceased taken at the time of inquest also contains the age of the deceased as fifty nine (59) years. The P.M. report also

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clearly indicates that the age of the deceased is fifty nine (59) years. Considering the said document, the Tribunal has rightly taken the age of the deceased as fifty nine (59) years. Considering the said aspect, the Tribunal has not rightly relied upon Ex.P12 - Aadhar card wherein year of birth of the deceased is mentioned as 1950. The age of wife of the deceased as mentioned in her Aadhar card is fifty one (51) years. Therefore the year of birth mentioned the Aadhar Card of the deceased appears to be not proper. Therefore, the Tribunal has rightly taken the age of the deceased as fifty nine (59) years and rightly applied multiplier '9' and rightly added 10% towards future prospects.

13. The notional income fixed for the year 2022 is Rs.15,500/- per month and the said income is to be taken as against Rs.15,000/- taken by the Tribunal. The Tribunal considering that the deceased has wife and three (03) children has deducted 1/4th towards personal expenses of the deceased. The daughters of the deceased who are

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arrayed as respondent Nos.2 to 4 before the Tribunal are all married daughters and they are not dependents. The claimant is the wife of the deceased. Considering that the deceased is a married man having wife and children, deductions towards personal expenses of the deceased is to be taken as 1/3rd as against 1/4th taken by the Tribunal. In view of the same, loss of dependency is calculated as under:

> Rs.15,500/- + 10% = Rs.17,050/- X 12 = Rs.2,04,600/- - 1/3rd = Rs.1,36,400/- X 9 = Rs.12,27,600/-.

14. The Tribunal considering that the claimant is wife of the deceased and respondent Nos.2 to 4 are married daughters has rightly awarded consortium in a sum of Rs.1,76,000/- (Rs.44,000/- X 4). The Tribunal has rightly awarded loss of estate in a sum of Rs.16,500/- and funeral expenses in a sum of Rs.16,500/-. Since loss of consortium is awarded, the claimants are not entitled to loss of love and affection awarded by the Tribunal in a sum

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of Rs.50,000/-. The claimant has received Rs.25,000/- as an interim compensation from BMTC and therefore the said amount has been rightly deducted in the compensation assessed.

15. Considering all the above aspects, the claimant is entitled to total compensation under various heads as under:

Sl. No.	**Particulars**	**Amount**
1.	Loss of dependency	Rs. 12,27,600/-
2.	Loss of consortium	Rs. 1,76,000/-
3.	Loss of estate	Rs. 16,500/-
4.	Funeral expenses	Rs. 16,500/-
	Total	**Rs. 14,36,600/-**
	Less: 10% contributory negligence of the deceased	Rs. (-) 1,43,660/-
	Total	**Rs. 12,92,940/-**
	Less: Interim compensation	Rs. (-) 25,000/-
	Total	**Rs. 12,67,940/-**

16. The claimant is entitled to total compensation of Rs.12,67,940/- as against Rs.7,72,750/- awarded by the Tribunal with interest.

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17. Consequently the claimant is entitled to enhanced compensation of Rs.4,95,190/- with interest at the rate of 6% per annum from the date of petition till realisation.

18. The claimant is not entitled to interest for the delay period of 186 days in filing the appeal as per the order dated 23.08.2025 passed on I.A.No.1/2025. Accordingly, ***point No.II*** is answered.

19. The BMTC is liable to pay the said enhanced compensation amount with interest.

20. In view of the above, the following:

ORDER

*i) Both Miscellaneous First Appeals are **allowed-in-part**.*

ii) The claimant is entitled to enhanced compensation of Rs.4,95,190/- with interest at the rate of 6% per annum from the date of petition till realisation.

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iii) The BMTC shall deposit the enhanced compensation amount with interest before the Tribunal within a period of six weeks from this day.

iv) The claimant is not entitled to interest for the delay period of 186 days in filing the appeal.

v) The appellant/claimant alone is entitled to enhanced compensation amount with interest.

vi) The amount in deposit is ordered to be transmitted to the Tribunal.

vii) Out of the enhanced compensation, 50% shall be released to the appellant/claimant and remaining 50% shall be kept in Fixed Deposit in the name of appellant/claimant with Karnataka Bank, City Civil Court branch, Bengaluru, for a period of five (05) years.

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(SHIVASHANKAR AMARANNAVAR)
JUDGE

KLV List No.: 1 Sl No.: 28