HC-KAR

NC: 2026:KHC:60342
MFA No. 398 of 2025
C/W MFA No. 518 of 2025

CNR: KAHC010026142025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 398 OF 2025 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 518 OF 2025 (MV-I)

IN MFA No. 398/2025

BETWEEN:

SMT. MEENAKSHI
W/O BALAJI THAPA,
AGED ABOUT 37 YEARS,
R/AT NO.74, MATHRUSHI NILAYA,
3RD FLOOR, 20TH CROSS,
BEGUR ROAD, VISHWA PIRYA NAGAR,
1ST BLOCK, SHIVA GANGA,
USHODAYA APARTMENT,
BEGUR, BENGALURU SOUTH,
BENGALURU - 560 068.

...APPELLANT

(BY SRI. JAGADEESH H.T., ADVOCATE)

AND

THE MANAGING DIRECTOR
BMTC, BENGALURU CENTRAL OFFICE,
K.H. ROAD, SHANTHI NAGAR,
BENGALURU - 27.

...RESPONDENT

(BY SMT. SOHANI A. HOLLA, ADVOCATE)

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SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 18.09.2024 PASSED IN MVC NO. 4907/2023 ON THE FILE OF THE XVIII ADDITIONAL JUDGE AND ACJM, COURT OF SMALL CAUSES, MOTOR VEHICLES ACCIDENT CLAIMS TRIBUNAL, BENGALURU CITY (SCCH-4), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA NO. 518/2025

BETWEEN:

THE MANAGING DIRECTOR
BMTC, BENGALURU CENTRAL OFFICE
K.H.ROAD, SHANTHI NAGAR,
BENGALURU - 560 027.

...APPELLANT

(BY SMT. SOHANI A. HOLLA, ADVOCATE)

AND:

SMT. MEENAKSHI
W/O. BALAJI THAPA,
AGED ABOUT 36 YEARS,
R/AT NO. 74, MATHRUSRI NILAYA,
3RD FLOOR, 20TH CROSS,
BEGUR ROAD, VISHWAPRIYA NAGAR,
1ST BLOCK, SHIV GANGA USHODAYA APARTMENT,
BEGUR, BANGALORE SOUTH,
BANGALORE - 560 068.

...RESPONDENT

(BY SRI. JAGADEESH H.T., ADVOCATE)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 18.09.2024 PASSED IN MVC

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JUDGE, HIGH COURT OF KARNATAKA

NO.4907/2023 ON THE FILE OF THE XVIII ADDITIONAL JUDGE AND ACJM, COURT OF SMALL CAUSES, MOTOR ACCIDENT CLAIMS TRIBUNAL, BENGALURU CITY (SCCH-4), AWARDING COMPENSATION OF RS.17,79,024/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL THE REALIZATION.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

Miscellaneous First Appeal No.398/2025 is filed by the claimant seeking enhancement of compensation and Miscellaneous First Appeal No.518/2025 is filed by BMTC challenging the Judgment and Award dated 18.09.2024 passed in MVC No.4907/2023 by XVIII Additional Judge and ACJM, Court of Small Causes and MACT, Bengaluru (SCCH-4).

2. The claim petition has been filed seeking for award of compensation for the injuries sustained by the claimant in a road traffic accident occurred on 11.07.2023

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contending that the accident occurred due to rash and negligent driving of the driver of BMTC bus bearing registration No.KA-57-F-1215.

3. 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:

Sl. No.	**Particulars**	**Amount**
1.	Loss towards earning capacity/ loss of future income	Rs. 6,14,400/-
2.	Loss of income during the laid up period	Rs. 64,080/-
3.	Medical and future medical expenses	Rs. 8,60544/-
4.	Conveyance allowance, attendant charge and special diet	Rs. 80,000/-
5.	Pain and sufferings	Rs. 1,00,000/-
6.	Loss of enjoyment and loss of amenities of life	Rs. 60,000/-
	Total	**Rs. 17,79,024/-**

4. The Tribunal has also awarded interest at the rate of 6% per annum from the date petition till realisation

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and directed the BMTC to pay entire compensation amount with interest. The BMTC challenging the said Judgment and Award regarding quantum of compensation and contending that there is a contributory negligence on the part of the claimant has filed the appeal. The claimant has filed the appeal seeking enhancement of the compensation awarded by the Tribunal.

5. Heard the learned counsel appearing for the BMTC and learned counsel appearing for the claimant.

6. Learned counsel appearing for the BMTC would contend that, the scooter of the claimant dashed against the side wall of the road and thereafter hand touched the bus and in that, she has sustained injuries and there is a contributory negligence on the part of the claimant. In Ex.P3 - Spot Mahazar, it is stated that the front wheel of the bus ran over right hand of the claimant. The Motor Vehicles Inspector's report indicate the damages to both the vehicles. Considering the said aspects, there is a

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contributory negligence on the part of the claimant/rider of the scooter. She further submits that the claimant has sustained one grievous injury and two simple injuries and the compensation awarded towards pain and sufferings, loss of amenities are on higher side. The claimant has been admitted in hospital for twelve (12) days and considering the same, the compensation awarded towards loss of income during laid up period and attendant and conveyance charges are on higher side. With these, she prayed to allow the appeal filed by the BMTC.

7. Learned counsel appearing for the claimant would contend that, the charge sheet has been filed against the driver of the bus and the same has not been challenged by him and it is stated in the charge sheet that the entire negligent driving is attributed to the driver of the bus. Considering the said aspect, the Tribunal has rightly held that the accident occurred due to sole rash and negligent driving on the part of driver of the bus. He further submits that the accident occurred in the year

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2023 and the notional income fixed for the said year is Rs.16,250/- and the said income is to be taken as against Rs.16,000/- taken by the Tribunal. Even though, the Tribunal has taken the disability at 20%, future prospects are not added and the claimant is entitled to 40% future prospects. With these, he prayed to allow the appeal filed by the claimant.

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

9. The following points are arises for consideration:

I) Whether the Tribunal is justified in holding that the accident occurred due to sole rash and negligent driving on the part of driver of BMTC bus.

II) Whether the compensation awarded by the Tribunal is on higher side.

III) Whether the compensation awarded by the Tribunal requires any enhancement.

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REASONS

10. **POINT NO.I :** The accident occurred on 11.07.2023 at about 11:00 a.m. The claimant was proceeding in scooter bearing registration No.KA-51-HK-7123 from Naganathapura Junction towards Konappana Agrahara Junction on her left side and at that time, the driver of BMTC bus bearing registration No.KA-57-F-1215 drove his bus and dashed to the scooter of the claimant. Due to which, the claimant fell down and the wheel of the bus ran over her right hand. Ex.P8 is the charge sheet and it is filed against driver of BMTC bus for rash and negligent driving for offences punishable under Sections 279 and 338 of Indian Penal Code, 1860. The driver of the bus has been examined as R.W.1 and has stated that he is facing trial in a criminal case for rash and negligent driving. Ex.P7 - Motor Vehicle Inspector's report indicates scratch mark on the front left side bumper of the bus and scratch mark on the front side body of the scooter. The scratch mark on the left side bumper of the bus clear indicates

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that it dashed to the scooter of the claimant. The BMTC has not examined any other witnesses to prove to establish rash and negligent driving on the part of the rider of the scooter. The driver of the bus has not challenged the charge sheet filed against him for rash and negligent driving. Considering the said aspect, the Tribunal has rightly held that the accident occurred due to sole rash and negligent driving on the part of the driver of BMTC bus. Accordingly, ***point No.I*** is answered.

11. **POINT NOS.II AND III :** The claimant has sustained the following injuries as per Ex.P6 - Wound Certificate:

i) Laceration 3 cms. * 1.5 cms. * 1.5 cms. present behind right ear.

ii) Laceration 4 cms. * 3 cms. * 1 cms. present over right hand.

iii) Crush injury present over right forearm between mid arm till wrist, exposing underlying crushed and lacerated tendons, ligaments, muscles, vessels and nerves with loss of skin and muscle. CT scan shows

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fracture of mid shaft of luna and subluxated superior radioulnar joint.

12. Out of the said three (03) injuries, injury Nos.i and ii are simple in nature and injury No.iii is grievous in nature. Considering the said injuries sustained, the compensation awarded by the Tribunal towards pain and sufferings in a sum of Rs.1,00,000/- is on higher side and the claimant is entitled to a sum of Rs.60,000/- towards pain and sufferings. Even the loss of amenities awarded by the Tribunal in a sum of Rs.60,000/- is on higher side and the claimant is entitled to a sum of Rs.50,000/- towards loss of amenities.

13. Considering the said injuries sustained by the claimant, she has to take rest atleast for three (03) months and therefore entitled to loss of income during laid up period for three (03) months in a sum of Rs.48,750/- (Rs.16,250/- X 03 months).

14. The accident occurred in the year 2023 and the notional income fixed for the said year by the Karnataka

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State Legal Services Authority is Rs.16,250/- per month and the said income is to be taken as against Rs.16,000/- taken by the Tribunal.

15. As per Ex.P9, discharge summaries (03 Nos.), the claimant has been admitted in hospital totally for a period of fifteen (15) days and therefore entitled to attendant, conveyance charges, food and nourishment etc. in a sum of Rs.15,000/- (Rs.1,000/- X 15 days) as against Rs.80,000/- awarded by the Tribunal.

16. The Tribunal has rightly awarded medical expenses of Rs.8,10,544/- considering the medical bills produced by the claimant. The Tribunal has awarded Rs.50,000/- towards future medical expenses i.e., for removal of implant. P.W.2 - Doctor has stated that the implant has been removed in one of the discharge summaries dated 25.11.2023 indicates that the implant has been removed on 25.11.2023. Since the implant has been removed and expenses pertaining to removal of the

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implant has been claimed in the medical expenses, therefore the claimant is not entitled to future medical expenses of Rs.50,000/- awarded to the Tribunal.

17. P.W.2 - Doctor has examined the claimant, assessed his disability and stated that the claimant has sustained 60% disability to the right upper limb and 20% to the whole body. The Tribunal considering the said evidence of the Doctor has rightly taken disability to the whole body at 20%. Since the disability is taken at 20%, the claimant is entitled to future prospects at 40% as the claimant was aged thirty five (35) years. The Tribunal has rightly applied multiplier '16'. In view of the same, loss of future income due to disability is calculated as under:

> Rs.16,250/- X 12 X 16 X 20% + 40% = Rs.8,73,600/-.

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

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Sl. No.	Particulars	Amount
1.	Pain and sufferings	Rs. 60,000/-
2.	Loss of amenities	Rs. 50,000/-
3.	Loss of future income due to disability	Rs. 8,73,600/-
4.	Medical expenses	Rs. 8,10,544/-
5.	Loss of income during laid up period	Rs. 48,750/-
6.	Attendant, conveyance, food and nourishment charges	Rs. 15,000/-
	Total	**Rs. 18,57,594/-**

19. The claimant is entitled to total compensation of Rs.18,57,894/- as against Rs.17,79,024/- awarded by the Tribunal with interest.

20. Consequently, the claimant is entitled to enhanced compensation of Rs.78,870/- (Rs.18,57,894/- - Rs.17,79,024/-) with interest at the rate of 6% per annum from the date of petition till realisation. Accordingly, ***point Nos.II and III*** are answered.

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

22. In view of the above, the following:

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ORDER

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

ii) The appellant/claimant is entitled to enhanced compensation of Rs.78,870/- with interest at the rate of 6% per annum from the date of petition till realisation.

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 appellant/claimant is entitled to release of entire enhanced compensation with interest.

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

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(SHIVASHANKAR AMARANNAVAR)
JUDGE

KLV
List No.: 1 Sl No.: 47