HC-KAR

NC: 2026:KHC:61733
MFA No. 1969 of 2016

CNR: KAHC010240932016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.1969 OF 2016(MV-I)

BETWEEN:

NIKITHA S.,
D/O SURESH BABU,
AGED ABOUT 22 YEARS,
R/AT NO.1656, "AKSHATA",
20TH MAIN, 8TH CROSS,
NISARGA LAYOUT,
BANGALORE - 560 083.

...APPELLANT

[BY SRI RAGHAVENDRA E P., ADVOCATE (VC)]

AND:

THE MANAGING DIRECTOR
BMTC, CENTRAL OFFICE,
K.H.ROAD,
BANGALORE - 560 027.

...RESPONDENT

[BY SRI D VIJAYA KUMAR, ADVOCATE (PH)]

Digitally signed by ANUSHA V
Location: High Court of Karnataka

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 12.12.2014 PASSED IN MVC NO.5668/2012 ON THE FILE OF THE XIII ADDITIONAL SMALL CAUSE JUDGE, COURT OF SMALL CAUSES AND MEMBER, MACT, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR *FINAL HEARING*, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 12.12.2014 passed by XIII Additional Small Cause Judge and Member, MACT, Bengaluru, in MVC no.5668/2012, this appeal is filed.

2. Perusal of memorandum of appeal would indicate that appeal is by claimant for enhancement of compensation in a personal injury claim award.

3. Brief facts leading to this appeal are that at 12:40 p.m. on 12.03.2012 when claimant was traveling in BMTC bus no.KA-01-F-4438 and alighting at Jayadeva Bus Stop, without verifying that she had got down completely driver moved bus. Consequently, she lost control, fell down and suffered injuries. Despite treatment at Fortis hospital, she did not recover fully and sustained disability. Claiming compensation for same she filed a claim petition under Section 166 of MV Act against Managing Director, BMTC.

4. On appearance claim petition was opposed on all grounds. Based on pleadings, tribunal framed issues and recorded evidence.

5. To establish contentions, father of claimant, claimant and Dr.BK Srinivas were deposed as PWs.1 to 3 and got marked Exs.P1 to P13. Driver of bus was examined as RW1 and got marked Ex.R1.

6. On consideration tribunal had held accident occurred due to rash and negligent driving of bus driver, claimant had sustained injuries and assessed compensation of Rs.1,60,000/- with interest at 8% per annum. Dissatisfied with award, appeal is filed.

7. In grounds pleaded in memorandum of appeal, enhancement is sought on compensation awarded towards loss of income during laid up period, towards diet and other incidental expenses, pain and suffering, amenities, medical expenses, future medical expenses, loss of marriage prospects as well as towards loss of future income.

8. On other hand, Sri D Vijaya Kumar, learned counsel for respondent would oppose appeal. It was submitted that considering nature of injuries and material on record tribunal had assessed compensation under each of heads rather liberally, leaving no scope for enhancement and sought for dismissal. It was submitted that claimant had sustained fracture of a tooth for which she got treated at Fortis Hospital and not only entire medical bills produced were reimbursed but also sufficient compensation under other heads was granted. Even rate of interest awarded at 8% was higher and would offset any scope for enhancement. On said ground sought for dismissal.

9. Heard learned counsel and perused judgment and award and record.

10. This appeal is by claimant for enhancement. Only point that would arise for consideration is:

> *Whether claimant is entitled for enhancement of compensation as prayed?*

11. Same is answered in negative for following reasons. There is no dispute about occurrence of accident involving

BMTC bus due to its rash and negligent driving and claimant sustaining injuries. Insofar as compensation towards pain and suffering, medical evidence on record would indicate that claimant sustained fracture of one tooth in lower jaw for which she was treated by a dentist in Fortis Hospital. Tribunal awarded Rs.30,000/- which appears just and proper. Medical expenses which included investigation for suspected fracture of skull, was Rs.25,168/-. Tribunal has awarded Rs.30,000/- towards medical expenses, thereby reimbursing claimant, leaving no scope for enhancement. Admittedly, claimant took inpatient treatment for only four days. Thus award of Rs.10,000/- towards attendant and other incidental expenses cannot be stated to be inadequate so as to warrant interference. Same is sustained. For fracture of one tooth treated with Root Canal and application of Crown. Despite that Tribunal has awarded Rs.50,000/- towards loss of amenities which would appear more than adequate. Hence no scope for enhancement. Apart from above Tribunal has awarded Rs.10,000/- towards loss of income during laid up period and Rs.30,000/- towards permanent physical impairment. Laid up

period being meager, award of Rs.10,000/- would also appear just and proper.

12. Insofar as refusal to award compensation towards future loss of income and instead awarding compensation towards permanent impairment, claimant has sought to rely upon deposition of PW3-dentist who treated her. In discharge summary as well as in his deposition, PW.3 has stated about treating claimant for fracture of one tooth on lower jaw. Strangely as would be expected of a dentist, particulars of fractured tooth is not mentioned and whether disability would sustain even after treating fractured tooth with crown application is not clearly stated. In any case assessment of disability of 10% to whole body would appear highly speculative. Without stating whether fractured tooth is an incisor, molar or canine and how it would cause permanent disability. In absence of any specific material regarding permanent physical disability and loss of earning capacity due to same, tribunal has awarded Rs.30,000/- towards permanent physical impairment which would be justified. Though compensation is also sought towards loss of marriage prospects

due to scarring, claimant has not produced any photographs or claimant herself not stated about same in her affidavit. Under above circumstances, award does not call for interference. Consequently, appeal is ***dismissed***.

Sd/-
(RAVI V HOSMANI)
JUDGE

YKL
List No.: 1 Sl No.: 16