HC-KAR

NC: 2026:KHC:22385
MFA No. 7664 of 2024
C/W MFA No. 3974 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF APRIL, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 7664 OF 2024 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 3974 OF 2025 (MV-I)

IN MFA No. 7664/2024

BETWEEN:

THE MANAGING DIRECTOR,
BMTC, SHANTHINAGAR,
BENGALURU-560 027
NOW THROUGH CHIEF LAW OFFICER
BMTC, BENGALURU

...APPELLANT

(BY SRI. NAGARAJA K., ADVOCATE(VC))

AND:

SRI BABU K @ BABU KANNAN
S/O KANNAN
AGED ABOUT 57 YEARS,
NO.90/21, ANNAI SATYA NAGAR,
VILIVAKKAM, THIRUVALLUR,
TAMILNADU-600 049.

...RESPONDENT

(BY SRI. SREENIVASAIAH A., ADVOCATE)

Digitally signed by PADMASHREE SHEKHAR DESAI
Location: High Court of Karnataka

THIS MFA FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.28.06.2024 PASSED IN MVC NO.3269/2022 ON THE FILE OF THE X ADDITIONAL JUDGE, COURT OF SMALL CAUSES AND MEMBER, MACT, BENGALURU, (SCCH-16), AWARDING COMPENSATION OF RS.15,82,633/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL REALIZATION.

IN MFA NO. 3974/2025:

BETWEEN:

BABU K @ BABU KANNAN
S/O KANNAN
AGED ABOUT 58 YEARS
RESIDING AT
NO.90/21, ANNAI SATYA NAGAR,
VILLIVAKKAM, THIRUVALLUR,
TAMIL NADU – 600 049.

...APPELLANT

(BY SRI. SREENIVASAIAH A.,ADVOCATE(VC))

AND:

THE MANAGING DIRECTOR,
B.M.T.C,
SHANTHINAGAR,
BENGALURU - 560 027.

...RESPONDENT

(BY SRI. NAGARAJA K.,ADVOCATE(VC))

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 28.06.2024 PASSED IN MVC NO. 3269/2022 ON THE FILE OF THE X ADDITIONAL JUDGE, COURT OF SMALL CAUSES AND MEMBER, MACT, BENGALURU (SCCH-16), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

These appeals arise out of judgment and award dated 28.06.2024 passed by X Additional Judge, Court of Small Causes & Member, MACT, Bengaluru, in MVC 3269 of 2022.

2. Injured claimant met with an accident on 19.03.2022 and filed claim petition claiming compensation of Rs.40,00,000/-. The Tribunal, considering the entire evidence on record, granted the compensation of Rs.15,82,633/- with interest at the rate of 6% per annum from the date of petition till realisation.

3. Aggrieved by the said order, MFA 7664 of 2024 is filed by the Managing Director, BMTC, and mainly contended that they examined R.W.1-driver of the bus and he stated that petitioner-claimant himself was negligently standing near the footboard, where he was not expected to stand. If at all he was inside the bus, he should not have been thrown out of the bus in the event of driver applying the sudden break and thus he himself contributed for the accident. It is contended that the Tribunal granted excessive amounts under the other heads.

Doctor assessed the disability as 55%. Tribunal has taken the disability as 55% and added 10% towards future prospects, which is on higher side and thus, requested for reduction in compensation.

4. Against the same award, claimant also filed MFA No.3974 of 2025 and mainly contented that he was working as a tailor and earning Rs.25,000/- per month. But, the Tribunal has taken the income as Rs.15,500/- per month. It is contended that he examined doctor as P.W.2 and the doctor assessed the total body disability as 60%, but, the Tribunal has taken only 55%. Tribunal granted meager amounts under the other heads. Loss of income during the laid up period ought to have been granted for 6 months and thus, requested for enhancement of the compensation.

5. Heard the arguments of learned counsel for both sides.

6. The manner of accident shows that petitioner was proceeding in a BMTC Bus bearing No.KA-57-F-3616 from Bommanahalli towards Electronic City, Hosur main road. When

the said bus reached at Kudlu Gate bus stop, at that time, the petitioner was standing near the door. At that time, the driver of the BMTC Bus drove it in rash and negligent manner and suddenly, applied the brake without closing the door. Due to the negligence of the driver of the bus, the petitioner fell down from the bus and sustained grievous injuries. Immediately after the accident, the petitioner was shifted to Hospital, where he was inpatient for 10 days.

7. Learned counsel of the BMTC contended that standing on the footboard itself is against the Rules. As he was standing near the door, the door could not be closed, and when the driver applied brake, he fell down from the bus. As such, there is contributory negligence on the part of the petitioner.

8. Learned counsel for the claimant stated that, in fact, petitioner was travelling in the bus and when the bus reached Kudlugate bus stop, he intended to get down from the bus and standing near the door, at that time, as the driver applied the brakes, he fell down and sustained injuries. It is contended that charge sheet is filed against driver of the bus. RW 1 is the driver of the bus. The BMTC has not examined any independent

eyewitness or passengers to prove their contention nor examined the conductor. As such, it was held that accident occurred only due to the rash and negligent driving of the driver of the BMTC bus and this Court finds no reason to interfere with the said order and it is confirmed.

9. The petitioner was aged 55 years at the time of accident and the relevant multiplier is 11. Though it is stated that the petitioner was working as tailor and earning Rs.25,000/- per month, he has not filed any income proof. As he met with an accident in the year 2022, Tribunal has rightly considered his notional income as Rs.15,500/- per month and it is confirmed.

10. Petitioner filed wound certificate under Exhibit P6 and discharge summaries, four in number, under Exhibit P7. Petitioner also examined an orthopedic surgeon as PW2 and he stated that petitioner sustained -

> *"Unstable Brust Fracture of L1 with Neurological deficit.*
> *He underwent surgery in the form of:*
>
> *1. Spinal stabilization with Fusion-L1 Vertebrae, Decompression, Laminectomy for*

Burst Fracture of L1 under GA on 24.03.2022.
2. Tendon Transfer for Right Foot on 04.04.2023.

On examination, he found the petitioner Walks with pain and stiff spine using a walker with foot drop gait(few steps), suturing scars are seen over Ls Spine, Neurogical Exam: Sensory blunting over S1, S2 and S3, EHL/EDL-3/5 Ankle Reflexes Sluggish.
-L1 Burst Fracture stablised with pedicle Screws and Rods.
-L1 Burst Fracture stabilized with canda Equina syndrome.
-Having Bowel and bladder disturbance-60%.
The doctor assessed Total Disability to the whole body at 60% and it is permanent."

11. In the cross-examination, the doctor has admitted that he has not taken any MRI report at the time of assessing the disability. He also admitted that, in the discharge summary, it was stated that petitioner was stable, wound was healed and comfortable. He has not issued any disability certificate nor seen MLC register at the time of assessing the disability and he has not taken any information from the doctor who conducted surgery to the petitioner.

12. The learned counsel for the BMTC has argued that the doctor has assessed disability excessively i.e. 60% to the whole body and he has not given any disability certificate and the tribunal has taken 55% without any basis and it is to be reduced. Whereas, learned counsel for the petitioner has said that the petitioner sustained 60% disability. He is working as a tailor. Therefore, the functional disability is to be considered as 100%.

13. After hearing the arguments and on perusal of wound certificate and medical evidence on record, this Court finds it just and reasonable to take the disability as 40%. As the disability is more than 20%, petitioner is entitled for future prospects as per the citation in the case of ***New India Assurance Company Limited Vs. Abdul, son of Mehaboob Tahasildar and Others*** (M.F.A. No.103807/2016 c/w. M.F.A. No.103835/2016 decided on 27.05.2022). Since the petitioner was aged 55 years at the time of accident, the future prospects is to be taken as 10%. Thus, loss of future earning capacity comes to Rs.9,00,240/- (15,500 + 10% x 12 x 11 x

40%). Tribunal has granted Rs.1,77,803/- towards medical expenses and the said amount is confirmed.

14. Petitioner was admitted in the hospital for a period of 12 days. Considering the nature of injuries, his age, occupation, the period of hospitalization and other relevant factors, compensation granted by the Tribunal for pain and suffering, loss of amenities, attendant charges, food and nourishment and conveyance expenses is just and reasonable and the said amounts are confirmed. Petitioner might not have attended any other work at least for a period of 4 months due to the injuries sustained in the accident. Therefore, Rs.62,000/- (15,500 x 4) is granted under the head loss of income during laid up period.

15. Thus, in all, the claimant is entitled for the reduced compensation of Rs.12,92,043/- with interest at 6% per annum as against Rs.15,82,633/- awarded by the Tribunal.

16. The award of compensation passed by the Tribunal is modified as under:

Heads	Amount in Rs.
1. Loss of future income	9,00,240/-
2. Medical expenses	1,77,803/-
3. Pain and Suffering	70,000/-
4. Loss of amenities	25,000/-
5. Attendant charges	24,000/-
6. Food and nourishment	18,000/-
7. Conveyance expenses	15,000/-
8. Loss of earning during the laid up period	62,000/-
Total	**12,92,043/-**

17. In the result, the following order is passed:

(i) M.F.A. No.7664 of 2024 filed by BMTC is allowed in part. M.F.A. No.3974 of 2025 by filed claimant is dismissed.

(ii) The claimant is entitled for the total compensation of Rs.12,92,043/- with interest at 6% per annum from the date of petition till the date of realization.

(iii) The appellant-BMTC has already deposited 50% of compensation and therefore, they are directed to deposit the balance compensation with interest at 6% per annum within one month from the date of this order.

(iv) The statutory amount already deposited by the BMTC shall be transferred to Tribunal.

(v) On such deposit, the claimant is permitted to withdraw the entire amount along with the interest accrued on it.

(vi) In view of the order passed today on I.A.No.1/2025, the claimant is not entitled for interest for the delay period of 212 days in filing the appeal.

Sd/-
(P SREE SUDHA)
JUDGE

CS
CT:NR
List No.: 1 Sl No.: 68