HC-KAR

NC: 2026:KHC:60234
MFA No. 2002 of 2025
C/W MFA No. 7867 of 2024

CNR: KAHC010181632025

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. 2002 OF 2025 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL No. 7867 OF 2024 (MV-I)

IN MFA No. 2002/2025

BETWEEN:

SRI. IRFAN
S/O SYED IBRAHIM
AGED ABOUT 38 YEARS
R/AT No. 291/1, 3RD CROSS
KOGILU LAYOUT, SRINIVASAPURA
YELAHANKA, BENGALURU-560 064.

...APPELLANT

(BY SRI HARISH N.R, ADVOCATE)

AND:

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

(RC OWNER OF BMTC BUS
BEARING No. KA-57F-5375)

...RESPONDENT

(BY SRI D VIJAYA KUMAR, ADVOCATE)

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SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATAKA

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:20.09.2024 PASSED IN MVC No.2113/2023 ON THE FILE OF THE X ADDITIONAL COURT OF SMALL CAUSES AND MEMBER, MACT, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA No. 7867/2024

BETWEEN:

THE MANAGING DIRECTOR
B.M.T.C.
K H ROAD
SHANTHI NAGAR
BENGALURU-560 027.

...APPELLANT

(BY SRI D VIJAYAKUMAR, ADVOCATE)

AND:

1. SRI IRFAN
S/O SYED IBRAHIM
AGED ABOUT 37 YEARS
R/AT No.291/1, 3RD CROSS
KOGILU LAYOUT
SRINIVASAPURA, YELAHANKA
BENGALURU-560 064.

...RESPONDENT

(BY SRI. HARISH N.R, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:20.09.2024 PASSED IN MVC No.2113/2023 ON THE FILE OF THE X ADDITIONAL COURT OF SMALL CAUSES AND MEMBER, MACT, BENGALURU (SCCH-16), AWARDING COMPENSATION OF RS. 4,40,324/- WITH INTEREST AT 6 PERCENT P.A. FROM DATE OF PETITION TILL REALIZATION.

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JUDGE, HIGH COURT OF KARNATAKA

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

1. MFA No. 2002/2025 is filed by the claimant seeking enhancement of compensation and MFA No. 7867/2024 is filed by the BMTC challenging the quantum of compensation and the negligence in the judgment and award dated 20.09.2024 passed in MVC No. 2113/2023 by X Additional Judge, Court of Small Causes and Member, M.A.C.T., Bengaluru, (SCCH-16).

2. Claimant made a claim petition praying to award compensation for the injuries sustained by him in a road traffic accident that occurred on 20.02.2023 contending that the accident occurred due to the rash and negligent driving of the driver of BMTC bus bearing registration No. KA-57-F-5375. The Tribunal after recording evidence, appreciating the evidence on record, assessed the compensation and awarded compensation under different heads as under:

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1.	Loss of future income	Rs.2,79,000-00
2.	Medical expenses	Rs.59,124-00
3.	Pain and sufferings	Rs.40,000-00
4.	Attendant charges	Rs.4,000-00
5.	Food and nourishment	Rs.3,200-00
6.	Conveyance expenses	Rs.4,000-00
7.	Loss of income during treatment period	Rs.31,000-00
8.	Loss of amenities	Rs.20,000-00
9.	Future medical expenses	NIL
	Total	**Rs.4,40,324-00**

3. The Tribunal has also awarded interest at the rate of 6% per annum from the date of petition till the dte of realization and directed BMTC to deposit the compensation amount with interest. Claimant has filed the appeal seeking

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enhancement of compensation and BMTC has filed appeal challenging the quantum and also negligence.

4. Heard the learned counsel for BMTC and learned counsel for claimant.

5. Learned counsel for BMTC would contend that the claimant has stated that the bus came from his hind side and dashed to his scooter and he sustained injuries. But, the charge sheet and sketch indicate otherwise. Bus had stopped in the signal and after green signal, it proceeded and the bus was not driven with speed at that time. Report of the Motor Vehicle Inspector indicate that there was damage on the left side of the scooter which is contrary to the evidence of the claimant that the bus dashed from hind side. He further submits that the disability taken by the Tribunal at 10% is on higher side considering the fact that claimant had sustained injury at the joint of great toe. The Doctor had stated that the claimant had to take rest only for two weeks. Considering those aspects, compensation

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awarded by the Tribunal is on higher side. With this he prayed to allow the appeal filed by the BMTC.

6. Learned counsel for claimant would contend that charge sheet has been filed against the driver of the bus. Driver of the bus has not challenged the charge sheet. Driver of the bus took right turn in the signal and touched the left side of the scooter causing damage on the left side of the scooter due to which the claimant fell down and sustained injuries. Said aspect is also mentioned in the charge sheet Ex.P.10. He further submits that accident occurred due to the sole rash and negligent driving by the driver of the bus. He submits that compensation awarded towards pain and suffering, loss of amenities and loss of income during laid up period are on lower side considering the fracture sustained and treatment taken by the claimant. With this he prayed to allow the appeal filed by the claimant.

7. Having heard learned counsel for the parties the Court has perused the judgment, award and trial Court records.

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8. The following points arise for consideration:

i. Whether the Tribunal is justified in holding that the accident occurred due to the sole negligent driving on the part of driver of the BMTC bus?

ii. Whether the compensation awarded by the Tribunal is on higher side?

iii. Whether the compensation awarded by the Tribunal requires enhancement?

9. **REASONS ON POINT NO. i**. The accident occurred on 20.11.2023 at about 09.30 p.m. Ex.P.10 is the charge sheet and it is filed against the driver of the bus for rash and negligent driving, for offences under Section 279 and 338 of IPC. R.W.1 is the driver of the bus and he has not challenged the charge sheet filed against him for rash and negligent driving. Ex.P.4 is the sketch of spot of the accident. The accident occurred in the junction. As per accusation in column No. 17 of the charge sheet, the bus proceeded after a green signal in the junction on extreme right side and dashed to the scooter of the claimant due to

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which the scooter got damaged and the claimant sustained injuries. A perusal of sketch - Ex.P.4 indicates that the bus proceeded in the junction on extreme right side of the road and dashed to the scooter of the claimant on its left side. Ex.P.8 - Motor Vehicle Inspector's report clearly indicate damage on the left side of the scooter. Considering the said aspects, the Tribunal has rightly held that the accident occurred due to the sole negligence on the part of the driver of the BMTC bus. Accordingly point number 1 is answered.

10. **REASONS ON POINT NOs. ii and iii** : The accident occurred on 20.02.2023 and as on the date of accident the claimant was aged 37 years. Considering the said age of the claimant the Tribunal has rightly applied multiplier `15'. Notional income fixed for the year 2023 is Rs.16,000/- and the said income is to be taken as against Rs.15,500/- taken by the Tribunal.

11. Claimant had sustained the following injuries:

> "compound grade IIIB fracture and dislocation of right 1st MTP joint"

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12. Considering the said injuries sustained by the claimant, the compensation awarded by the Tribunal towards pain and suffering and loss of amenity in a sum of Rs.40,000/- and Rs.20,000/- respectively is just and proper.

13. Claimant was admitted in the hospital for 4 days. Considering the same claimant is entitled to only a sum of Rs.4,000/- (Rs.1,000 X 4 days) towards attendant, conveyance charges, food and nourishment etc., as against Rs.4,000/- awarded by the Tribunal towards attendant charges, Rs.3,000/- towards food and nourishment and Rs.4,000/- towards conveyance expenses.

14. P.W.2 - Doctor has stated that claimant had to take rest for two weeks and considering the fracture sustained by the claimant and his avocation, as wood worker, he had to take rest at least for one month and therefore entitled to loss of income during laid up period in a sum of Rs.16,250/- as against Rs.31,000/- awarded by the Tribunal.

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15. P.W.2 - Doctor has stated that he had examined the claimant, assessed his disability and claimant had sustained 16% disability to the whole body. The Tribunal has taken the disability at 10%. Fracture sustained by the claimant is to the joint of right great toe. Considering the said fracture and avocation of the claimant as wood worker, functional disability is to be taken and it is taken at 5% as against 10% taken by the Tribunal.

16. In view of the above loss of future income due to disability is calculated as under:

16,250 X 12 X 15 X 5% = Rs.1,46,250/-

17. In view of the above the claimant is entitled to total compensation under various heads as under:

1	Pain and sufferings	Rs.40,000-00
2	Loss of amenities	Rs.20,000-00
3	Medical expenses	Rs.59,124-00
4	Attendant, conveyance charges, food and nourishment	Rs.4,000-00

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5	Loss of income during treatment period	Rs.16,250-00
6	Loss of future income	Rs.1,46,250-00
	Total	**Rs.2,85,624-00**

18. Claimant is entitled to total compensation of Rs.2,85,624/- as against Rs.4,40,324/- awarded by the Tribunal. Accordingly point Nos. ii and iii are answered. Respondent - BMTC is liable to pay the said compensation with interest.

19. In view of the above the following;

O R D E R

a) Both the appeals are allowed in part.

b) The claimant is entitled to total compensation of Rs.2,85,624/- with interest at the rate of 6% per annum from the date of petition till realization.

c) BMTC shall deposit the enhanced compensation with interest before the Tribunal within six weeks from this day.

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d) Amount in deposit is ordered to be transmitted to the Tribunal.

e) The claimant is entitled to release of entire compensation.

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(SHIVASHANKAR AMARANNAVAR)
JUDGE

LRS
List No.: 1 Sl No.: 48
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