

KABG300006492018



**IN THE COURT OF SENIOR CIVIL JUDGE & ADDL.
MACT, BAILHONGAL, AT: BAILHONGAL**

Dated this the 28th Day of July 2026

PRESENT

Shri. Ravi Babu Chawan,
B.A.LL.B.,
Senior Civil Judge and Addl. MACT.,
Bailhongal.

M.V.C. No.1828/ 2018

1) (Sri. Mehabub @ Mehaboobsab Abdulkhadir Pendari)
Age: 59 years, Occ: Tailor (Now nil),
R/o: Ashraya Colony, Devalapur Road
Bailhongal, Dist: Belagavi-591102)
Since deceased by his Lr's:

1(a) Smt. Noorjahan W/o Mehabub Pendari,
Age: 60 years, Occ: Coolie,
R/o: Indira Nagar, Tq: Bailhongal,
Dist: Belagavi.

1(b) Shri. Dilawargori S/o Mehabub Pendari,
Age: 42 years, Occ: Coolie,
R/o: Indira Nagar, Tq: Bailhongal,
Dist: Belagavi.

1(c) Smt. Bibiayesha W/o Wasim Kuslapur,
Age: 39 years, Occ: Household work,
R/o: Indira Nagar, Tq: Bailhongal,

Dist: Belagavi.

1(d) Shri. Mohammedgous S/o Mehabub Pendari,
Age: 37 years, Occ: Coolie,
R/o: Indira Nagar, Tq: Bailhongal,
Dist: Belagavi.

1(e) Shri. Nazirahmed S/o Mehabub Pendari,
Age: 35 years, Occ: Coolie,
R/o: Indira Nagar, Tq: Bailhongal,
Dist: Belagavi.

1(f) Smt. Aminabegum W/o Moahmmed Iliyas Peerjade,
Age: 26 years, Occ: Household work,
R/o: Modalagi, Tq: Gokak, Dist: Belagavi.

..... Petitioners

(By Shri. I.D.W., Advocate)

-Vs-

The Divisional Manager,
NWKRTC Belagavi,
Through it's Depot Manager,
NWKRTC, Bailhongal,
Bailhongal, Dist: Belagavi.

(KSRTC Bus bearing No.KA-42/F-1966)

.....Respondent

(By Shri. S.B.P., Advocate)

JUDGMENT

The petitioner has field the present claim petition under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.5,00,000/- together with interest at the rate of 18% per annum from the date of the

accident till realization.

2. The brief facts of the petition are as under:

On 06-07-2018 at about 8.30 am., the original petitioner was travelling as fare paid passenger in KSRTC Bus bearing No.KA.42/F-1966 (the bus was proceeding from Bailhongal to Khilegaon) from Bailhongal to Gokak, when the said bus came within the limits of Mekalmaradi village, 01 KM from Mekalmaradi cross on Bailhongal-Mekalmaradi Road, at that time the driver of said bus drove it in a high speed, rash and negligent manner, endangering to human life and suddenly applied the break, the said bus dragged into a right side ditch and caused the accident and as a result the original petitioner has sustained grievous injuries in the accident.

3. It is further averred that, immediately after the accident the petitioner was shifted to Government Hospital, Bailhongal, by Ambulance, wherein he was admitted as an inpatient from 06-07-2018 to 16-07-2018, underwent conservative and surgical treatment for the grievous injuries to head, nose, spinal cord and other injuries. But the said injuries are not cured and

then the original petitioner took treatment from Lakeview Hospital, Belagavi, with Dr. V.G. Uppaladinni, Neurosurgeon. He has taken continuous follow up treatment. He has spent an amount of Rs.50,000/- towards medical expenses, conveyance etc and he require another Rs.25,000/-for future medical expenses.

4. It is further pleaded that prior to the accident, the original petitioner was hale and healthy, aged 59 years and was doing tailoring work in Bailhongal city, earning Rs.15,000/- per month and he was maintaining himself and his family members. He further averred that due to the accidental injuries the original petitioner was not in a position to do any work and he lost his tailoring work and he loss his complete work and earning capacity. Due to the grievous injuries to head, brain, spinal cord, backache and fracture of nasal bone and other multiple injuries, the petitioner lost memory power to great extent and getting repeated headache, giddiness and he cannot move in the hot sunshine, always breathing problems. His eyes and ears become very week and he has lost vision and hearing power to great extent.

5. It is further averred by way of amendment that

during the pendency of claim petition, the original petitioner was died on 20-05-2022 due to above said accidental injuries and due to sudden death of original petitioner, the petitioner Nos.1(a) to 1(f) as his legal representatives has loss their complete dependency. All the petitioners are being put to great mental agony, pain and hardship have suffered mentally, physically and financially.

6. Lastly it is contended that the accident occurred solely due to the rash and negligent driving of the driver of KSRTC Bus bearing Reg. No.KA-42/F-1966. Since the respondent is the owner of the offending Bus and is vicarious liable for the act of its driver, the respondent is liable to pay the compensation claimed in the petition. On these grounds, the petitioners have prayed for allowing the claim petition by awarding the compensation. Hence this petition.

7. Upon service of notice, the respondent entered appearance through its learned counsel and filed its statement of objections denying the material averments made in the claim petition.

8. The respondent specifically denied the age, income and occupation of the original petitioner and also injuries sustained, treatment taken, medical expenses and also the manner of accident. The amount of the compensation amount claimed under the heads is excessive, exorbitant and arbitrary.

9. It is specific case of the respondent that on 06-07-2018 the bus bearing No.KA-22/F-1966 was going from Bailhongal to Khilegaon, when it came near to Mekalmaradi, the said bus was in slow, as there are some ditches on the road and the road was under repair and some jerk caused resulting the some minor injuries to the inmates of the bus and there are no break marks on the road, as such there is not fault on the part of the driver of the bus. He further contends that the original petitioner was more than 65 years, and due to his old age suffering from body pain and he is quite healthy and ready to do all day to day work. There is no physical, mental and financial loss to the original deceased petitioner due to the said injuries, as they are simple in nature suffering with old age problems.

10. Respondent has filed additional written statement, he denied that the original deceased

petitioner has sustained grievous injuries and succumbed to the said injuries during the course of treatment as all utterly false. According to respondent, the original petitioner took treatment at Govt. Hospital, Bailhongal and was aged 65 years at the time of accident. After discharge from Govt. Hospital, Bailhongal, he has not taken any treatment or admitted for the treatment of alleged injuries and has expired on 20-05-2022 due to old age, not due to alleged accidental injuries, the cause of death is not due to accidental injuries, as the alleged accident has taken place on 06-07-2018 after lapse of three years ten months expired on 20-05-2022 and no postmortem was conducted. Therefore, there is no nexus of cause of death due to alleged accidental injuries. Hence prayed for dismissal of the claim petition against him.

11. Based on the rival pleadings of the parties, my learned predecessor in the office was pleaded to frame the following issues:

ISSUES

- 1) Whether the petitioner proves that he has sustained injuries in the road accident, that was occurred on 06-07-2018 at about 8.30 am on Bailhongal- Mekalmaradi Road at Mekalmaradi village, due to rash and

negligent driving of driver of KSRTC Bus bearing No.KA.-42/F-1966?

2) Whether the petitioner is entitled for compensation? If so, How much? From whom ?

3) What Order ?

Additional Issue:

1) Whether the petitioners prove that there is nexus between the death of the original petitioner and alleged accidental injuries?

12. In order to substantiate the claim, the petitioner No.1(d) who is the legal heir of the deceased original petitioner examined as PW.1 and filed his examination-in-chief by way of affidavit. He also produced and got marked 11 documents, which were marked as Ex.P1 to P11. PW.1 was thoroughly cross-examined by the learned counsel appearing for the respondent. On the other hand, the respondent has not led any evidence or got marked the documents on its side.

13. Heard both sides. Perused the material available on record.

14. My findings on the above issues are as follows:

Issue No.1	In the Affirmative
Issue No.2	Partly in the Affirmative

Issue No.3	As per final order, for the following:
Addl.Issue No.1	In the Negative

REASONS

15. **Issue No.1:-** Issue No.1 relates to the occurrence of the accident and the negligence of the driver of the offending NWKRTC Bus.

16. Respondent has denied the very involvement of the bus and has contended that no accident occurred due to the negligence of its driver. It is also alleged that on 06-07-2018, the bus bearing No.KA-22/F-1966 was going from Bailhongal to Khilegaon, when it came near to Mekalmardi, the said bus was in slow, as there are some ditches on the road and the road was under repair under and some jerk caused resulting the some minor injuries to the inmates of the bus and there are no break marks on the road, as such there is not fault on the part of the driver of the bus. To establish the accident, the petitioners have relied upon Ex.P1 to P11.

17. As already recorded the burden of proving this

issue squarely rests upon the petitioners, in a claim petition filed under Section 166 of the Motor Vehicles Act, the claimant is required to establish that the accident occurred due to the rash and negligence driving of the offending vehicle on the touchstone of preponderance of probabilities and not by proof beyond reasonable doubt as required in criminal proceedings.

18. In the present case, the petitioner No.1(d) who is the one of the legal heirs of the deceased original petitioner examined himself as PW.1 and produced documentary evidence marked at Ex.P1 to P11. PW.1 was subjected to detail cross-examination by the respondent. In the cross-examination nothing has been elicited to disbelieve the version of PW.1.

19. The petitioners have mainly relied upon the police records, namely, F.I.R., complaint, spot panchanama, vehicle seizure panchanama, MVI report and charge sheet. Ex.P1 complaint, discloses that immediately after the occurrence of the accident, the matter was reported before the jurisdictional police. The complaint specifically narrates that on the day of accident at about 7.30 am, the original petitioner was boarded the Bus bearing No.KA.22/F-1966 which was going from Bailhongal to Khilegaon, and he was taken

ticket to go to Gokak, at about 8.30 am when the said bus came within the limits of Mekalmaradi village, 01 KM from Mekalmaradi cross on Bailhongal-Mekalmaradi Road, at that time the driver of said bus drove it in a high speed, rash and negligent manner, endangering to human life and suddenly applied the break, the said bus dragged into a right side ditch and caused the accident and as a result the original petitioner has sustained grievous injuries in the accident. The complaint came to be lodged on the same day of accident i.e., on 06-07-2018.

20. Pursuant to the said complaint (Ex.P2), Ex.P1, FIR came to be registered by the Nesargi Police on 06-07-2017 against the driver of the offending bus. The registration of the F.I.R. immediately after receipt of the complaint lends assumes significance to the version put forth by the petitioners the occurrence of the accident.

21. The petitioner has also relied upon Ex.P3, spot panchanama. The spot panchanama depicts the place of occurrence and corroborates that the accident occurred near 01 kilometer Mekalmaradi cross on Bailhongal-Mekalmaradi Road. The respondent has not produced any material to demonstrate that the spot panchanama is fabricated or that the investigating

agency had drawn a false mahazar.

22. Ex.P5 IMV report, discloses that offending vehicle involved in the accident was Ashok Leyland Bus bearing No.KA.22/F-1966. IMV report does not indicate any mechanical defects in the bus which could have attributed to the occurrence of the accident. The offence of mechanical defect probablize the case of the petitioners' that the accident occurred due to the manner in which vehicle was driven rather than because of any mechanical failure.

23. The medical evidence also lends substantial corroboration to the petitioners' case. Ex.P7 the wound certificate, reveals that immediately after the accident petitioner was examined by the Medical Officer and was found to have sustained simple injuries. The nature of the injuries recorded in the wound certificate is consistent with the manner of accident pleaded in the petition. There is absolutely no material placed before the tribunal to hold all the injuries mentioned in the wound certificate were fabricated or manipulated.

24. Further after completion of the investigation, the investigating officer filed Ex.P6, the charge sheet, against the driver of the offending KSRTC Bus bearing

Reg.No.KA.22/F-1966 for the offences punishable under Section 279 and 338 of I.P.C. The filing of the charge sheet indicates that the investigating officer upon collecting the oral and documentary evidence during the investigation, found sufficient material to prosecute the driver was rash and negligent driving. Though, it is true that the charge sheet is not conclusive proof of negligence, it is nevertheless a relevant piece of evidence in proceedings under the Motor Vehicles Act. Unless rebutted by convincing evidence, the tribunal can place reliance upon the police papers while determining the preponderance of probabilities. The respondent has taken a serious contention that when the Bus bearing No.KA.22/F-1966 was near to Mekalmaradi, the bus was in slow, as the road was with ditches and was under repair, and due to some jerk has caused the accident resulting some minor injuries to the inmates of the bus, there was no fault on the part of the driver of the bus. However, except making such allegation, respondent has not placed any acceptable evidence before the tribunal. No complaint is shown to have been lodged against the investigating officer. No departmental proceedings, criminal complaint or independent enquiry against the police official or the treated doctor has been produced. Similarly, no evidence has been adduced to establish that the

medical records are forged or fabricated. Merely the allegation of collusion, without any substantive evidence cannot be accepted. From the allegation required equally strong proof. Therefore in the absence of any convincing material placed, this tribunal is unable to accept the defence that the entire criminal case and medical were fabricated.

25. Furthermore, the respondent has not produced the conductor passenger manifest, print sheet or any other official records to probablize that the petitioner had never travelled in the bus. The respondent has also not led any evidence to prove his contention in the written objections. The Hon'ble Supreme Court as well as the Hon'ble High Court of Karnataka have strictly held that proceedings before the Motor Accident Claims Tribunal are summary in nature and strict rules of evidence applicable to criminal trials are not required to be followed. In the present case, the certified copy of the F.I.R., complaint, spot panchanama, vehicle seizure panchanama, MVI report, charge sheet and would certificate constitute reliable piece of evidence and, unless effectively rebutted sufficient to record finding regarding negligence on the basis of preponderance of probabilities.

26. Having considered oral and documentary evidence available on record, this tribunal is satisfied that the petitioners have successfully establish that on 06-07-2018 at about 8.30 am, near 1 kms from Mekalmaradi cross on Bailhongal-Mekalmaradi Road, within the limits of Mekalmaradi village, the original petitioner sustained injuries in the road traffic accident due to the rash and negligence driving of the driver of KSRTC Bus bearing No.KA-22/F-1966. Accordingly, I answer Issue No.1 in the **Affirmative.**

27. **Issue No.2 and Addl.Issue No.1:-** It is the specific case of the petitioners that the original petitioner sustained grievous injuries in the road traffic accident dated 06-07-2018 and, during the pendency of the claim petition, he was not cured from the injuries sustained in the accident. It is further pleaded that while he was under follow up treatment, she died on 20-05-2022, leaving behind the petitioner No.1(a) to 1(f) as his legal representatives. According to them, the death of the original petitioner was a consequences of the accident injuries, and therefore, they are entitled to compensation under various heads including funeral expenses and loss of dependency.

28. The respondent has categorically denied the

above said contention of the petitioner. It is specifically pleaded that the original petitioner died due to his old age suffering from body pain and that there was absolutely no nexus between her death and injuries sustained in the accident. The respondent has further contended that the claim regarding the cause of death has been made only to claim higher compensation.

29. The burden of proving nexus between the accidental injuries and subsequent death squarely rests upon the petitioners. Mere pleading that the deceased was taking follow up treatment or that he was not cured from the injuries sustained is not sufficient to establish that the death was the direct consequences of the injuries sustained in the accident. The petitioners were require to establish the casual connection by producing cogent and convincing medical evidence.

30. In the present case, admittedly the original petitioner expired on 20-05-2022, nearly 04 years after the date of accident. Except the oral assertion made in the amended pleadings and the evidence of PW.1 no independent medical evidence has been placed before the tribunal to establish that the death occurred due to accidental injuries. Significantly, the petitioners have not produced the postmortem report, death summary,

final treatment records, opinion of the treated doctor or medical certificate indicating that the death was attributable to the injuries sustained in the accident. Further neither the doctor who treated the deceased during her last illness nor any other medical expert has been examined before this tribunal to establish the cause of death.

31. Therefore, the absence of postmortem report assumes considerable significance in the facts of the present case. When the respondent has specifically disputed the cause of death and contended that the deceased died due to old age suffering from body pain, it was incumbent upon the petitioners to produce satisfactory medical evidence establishing the nexus between the injuries and death. In the absence of such evidence, the tribunal cannot presume that the death was caused by the injuries sustained in the accident. Merely because the deceased has suffered factual several years earlier.

32. PW.1 admittedly not an an eye witness to the treatment nor is a medical expert. His testimony regrading the cause of death is only based upon his personal belief and cannot substitute expert medical evidence. Therefore, his testimony regarding the cause

of death is insufficient to establish the medical cause of death. It is also relevant to note that the accident occurred in the year 2018, whereas the deceased expired in May 2022. During this long intervening period, no medical records have been produced to demonstrate continuous treatment for complication arising out of the accidental injury leading to his death. Therefore, such long lapse of time further necessitated strong medical evidence, which is conspicuous absence. Thus, this Tribunal is of the considered opinion that the petitioners have failed to discharge the burden of proving that the death of the original petitioner was the direct consequences of the injuries sustained in the Road Traffic Accident.

33. In view of the findings, this Tribunal holds that the original deceased petitioner sustained injuries in the Road Traffic Accident on account of the rash and negligent driving of the KSRTC Bus bearing Reg. No.KA-42/F-1966. Consequently, the petitioners are entitled to just and reasonable compensation. However, the quantum of compensation has to be determined on the basis of the evidence available on record.

34. At the outset, it is pertinent to note that, the original petitioner died during the pendency of the

proceedings on 20-05-2022. No postmortem report, death summary, medical opinion or any expert evidence has been produced to establish that the death was the consequences of the accidental death. Therefore, the present claim cannot be treated as fatal accident claim. The legal representatives are entitled only to the compensation that had occurred to the original petitioner during life time on account of the injuries sustained in the accident.

35. So far as the age of the injured is concerned, Ex.P7 wound certificate discloses that the petitioner was aged about 60 years at the time of the accident. There is no contrary evidence placed on record by the respondent. Accordingly, the age of the petitioner is taken as 60 years for the purpose assessing compensation.

36. The petitioners have pleaded that the deceased was earning Rs.15,000/- per month by doing tailoring work in Bailhongal. However, except the self surviving oral assertion no documentary evidence such as registered in the tailoring shop or license obtained from the competent authority or any other acceptable material has been produced to establish his avocation or monthly income. Therefore, in the absence of

satisfactorily proof regarding income, this Tribunal would be justified in assessing the income notionally in accordance with settled principles while determining compensation.

37. Except his oral evidence petitioner has not examined the treated doctor so as to he has sustained grievous injuries as alleged in the petition. Hence there is no medical evidence on record to support the assertion of the petitioner that he has sustained permanent physical disability. The wound certificate produced by the petitioner at Ex.P7 goes to show that petitioner has sustained only simple injuries in the road traffic accident which had taken place on 06-07-2018. There is no evidence to hold that there was loss of earning capacity or earnings.

38. Coming to the medical expenses, the petitioners have produced Ex.P8 medical reports, Ex.P9 prescriptions, Ex.P10 medical bills and Ex.P11 entire case sheet of the hospital. These documents reveal that immediately after the accident the petitioner was taken treatment at General Hospital, Bailhongal. Further, the petitioners have produced Ex.P11 entire case sheet of Navajeevan Hospital, Belagavi, wherein the original petitioner was admitted on 27-06-2020 and discharged

on 05-07-2020. It indicates that near 02 years of the accident, the original petitioner was taken treatment as inpatient in the said hospital. Taking into consideration the entire facts and circumstances of the case, the nature of injuries, the age of the injured, the evidence available on record and the fact that the claim survives only as an injury claim this Tribunal is of the considered opinion that awarding a global compensation of Rs.75,000/- would meet the ends of justice. Accordingly, the petitioners are entitled to a global compensation of Rs.75,000/- together interests at the rate of 6% p.a., from the date of the petition till the date of realization.

39. The respondent, being the owner of the offending KSRTC Bus bearing Reg. No.KA-42/F-1966 is vicariously liable for the negligence act of its driver. Therefore, the respondent is liable to pay the aforesaid compensation amount to the petitioners, who are the legal representatives of deceased injured original petitioner. Hence Issue No.2 is answered ***partly in the Affirmative*** and Addl.Issue No.1 in the ***Negative***.

40. **Issue No.3:-** In view of my findings on issue Nos.1 and 2 and Addl.Issue No.1, I proceed to pass the following:

ORDER

The claim petition filed under Section 166 of the Motor Vehicles Act is allowed in part, with costs.

The petitioners, being the legal representatives of the deceased original petitioner, are entitled to a global compensation of Rs.75,000/- (Rupees Seventy five thousand only) together with interest at the rate of 6% per annum from the date of petition till the date of realization.

The respondent - NWKRTC, being the owner of the offending Bus bearing Reg. No.KA-42/F-1966, shall deposit the aforesaid compensation amount together with accrued interest before this tribunal within two months from the date of this order.

On such deposit, the entire compensation amount along with accrued interest shall be released in favour of petitioner Nos.1(a) to 1(f), being the legal

representatives of the deceased original petitioner, in equal proportion, through RTGS/NEFT, after due identification and in accordance with law.

Advocate's fee is fixed at Rs.1,000/-.

Draw an award accordingly.

(Dictated to the stenographer directly on computer system, corrected and then pronounced by me in the Open court/tribunal on this 28th Day of July, 2026)

(Ravi Babu Chawan)
Senior Civil Judge and Addl.
MACT, Bailhongal.

ANNEXURE

I) LIST OF WITNESSES EXAMINED BY THE PETITIONER:

PW.1: Shri. Mohammedgous S/o Mehabub Pindari

II) LIST OF DOCUMENTS MARKED BY THE PETITIONER

Ex.P1: C.C. of FIR
Ex.P2: C.C. of complaint
Ex.P3: C.C. of spot Panchanama
Ex.P4: C.C. of vehicle seizure panchanama
Ex.P5: C.C. of MVI report
Ex.P6: C.C. of charge sheet
Ex.P7: C.C. of wound certificate
Ex.P8: Medical reports
Ex.P9: Prescriptions
Ex.P10: Medical bills
Ex.P11: Entire case sheet of the hospital

IV) LIST OF WITNESSES EXAMINED BY THE RESPONDENT:

- Nil -

IV) LIST OF DOCUMENTS MARKED BY THE RESPONDENT:

- Nil -

(Ravi Babu Chawan)
Senior Civil Judge and Addl.
MACT, Bailhongal.