



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 26<sup>TH</sup> DAY OF FEBRUARY, 2026**

**BEFORE**

**THE HON'BLE MRS. JUSTICE P SREE SUDHA**

**MISCELLANEOUS FIRST APPEAL NO. 3305 OF 2014 (MV-I)**

**BETWEEN:**

NETHRAVATHI  
D/O CHIKKADASAI AH  
AGED ABOUT 26 YEARS,  
R/AT NO.169, 2<sup>ND</sup> CROSS,  
RAJAOSTHAVANAGAR,  
KUMARASWAMAY LAYOUT  
BANGALORE-58.

...APPELLANT

(BY SRI. SHRIPAD V SHASTRI ., ADVOCATE)

**AND:**

THE MANAGING DIRECTOR,  
KSRTC DIVISION, K.H.ROAD,  
SHANTHINAGAR,  
BANGALORE-560 027.

...RESPONDENT

(BY SRI. M.S. NARAYAN., ADVOCATE)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 24.02.2014 PASSED IN MVC NO.3074/2012 ON THE FILE OF THE XXI ADDITIONAL SMALL CAUSES JUDGE AND XIX ACMM, COURT OF SMALL CAUSES, MEMBER, MACT, BANGALORE (SCCH-XXIII), DISMISSING THE CLAIM PETITION FOR COMPENSATION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED ON 10.02.2026 COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **P SREE SUDHA J.,** DELIVERED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA





**CAV JUDGMENT**

This appeal is filed by the appellant/claimant under Section 173(1) of Motor Vehicles Act, 1988 challenging the judgment and award dated 24.02.2014 passed in MVC No.3074/2012, by the XIX Addl. Small Causes Judge and XIX ACMM, Member, MACT, Bengaluru, dismissing the claim petition.

2. Heard the arguments of the learned counsel for the appellant/petitioner and learned counsel for respondent-Insurance Company. The ranks of the parties are retained as per tribunal for the sake of convenience.

3. The petitioner/injured claimant had filed petition before the Tribunal claiming for compensation of Rs.5,00,000/-. The trial Court considering the entire evidence on record has dismissed the claim petition on the ground that the claimant has failed to establish the fact that, she sustained grievous injuries in the road traffic accident that occurred on 24.03.2012 due to rash and negligence on the part of driver of the KSRTC bus which is



said to be involved the accident. Aggrieved by the said order, this appeal is filed on several grounds claiming compensation of Rs.5,00,000/-.

4. Brief facts of the case of the petitioner is that on 24.03.2014, when the petitioner was proceeding on Honda Activa bearing Reg.No.KA-01-EH-3990 as a pillion rider in front of Hanumanthaiah house, Dyvasandra, ridden by one Arun Kumar, carefully and cautiously and at that time, a KSRTC bus bearing Reg.No.KA-42-F-042 driven by its driver in a rash and negligent manner came from Harohalli side and dashed against the petitioner's Honda Activa, as a result of which petitioner and rider both fell down and sustained injuries, in which the petitioner sustained fracture of right clavicle, right scapula, right distal radius and other injuries all over her body and treated in various hospitals, undergone surgery for the fracture sustained, due to which she has suffered permanent disability and hence, filed claim petition claiming compensation.



5. Learned counsel for the respondent/Insurance Company however, contended that, the rider of the Honda Activa in which petitioner was a pillion rider, without observing traffic rules suddenly came in a rash and negligent manner and got touched to the bus and hence, the petitioner was injured and hence, contended that there is no negligence on the part of the driver of the KSRTC bus.

6. Based on the above pleadings and on perusal of the material on record, the Tribunal has dismissed the claim petition and being aggrieved, the appellant/petitioner has filed this appeal urging various grounds.

7. The learned counsel for the appellant/petitioner mainly argued that, though the contents of the spot mahazar and contention of the petitioner was that, the accident occurred due to 'head on collision' between the two vehicles, the Tribunal has not considered the material on record and has dismissed the petition. Further, it is argued that it is nobody's case that the vehicle, i.e., the



KSRTC bus is not involved in the accident. Further, the police papers reveal that the accident occurred on 24.03.2014 and the KSRTC bus is involved in the accident. In spite of the above, the Tribunal has not awarded compensation to the petitioner.

8. Heard learned counsel on both sides.

9. On hearing the learned counsel on both sides and on perusal of the material on record, it is clear that, involvement of the two vehicles in the road traffic accident is not disputed by either sides however, the respondent is mainly contending that the rider of the vehicle, in which the petitioner was the pillion rider, was wholly negligent in riding the vehicle due to which the accident has occurred.

10. Admittedly, charge sheet is filed against the driver of the KSRTC bus. However, it is argued by the learned counsel for respondent that the complainant, Arun Kumar, rider of the motor cycle, has not been examined before the Tribunal and in Ex.P.12-case sheet of the petitioner,



wherein in the history it is mentioned as 'fall'. Further, the petitioner has not produced the IMV report of the bus whereas Ex.P.5 is the IMV report of the *Activa Honda* vehicle. As per the said document the said *Activa Honda* got damaged towards front right and left side, speedometer was damaged and so also the panel board. As per Ex.P.4-spot mahazar the damages to the said bus is on front left side. In Ex.P.2-complaint, it is stated by the complainant that, by the time they were about to sit on the *Activa Honda* which was on the left side of the road, driver of the bus dashed against hind portion of the *Activa Honda*. The Tribunal for the aforesaid reasons and also observing that, as per Ex.P.5-IMV report of the *Activa Honda*, no damages has been caused to the rear portion of said vehicle and as per Ex.P.15-case sheet, the history is shown as "fall", dismissed the claim petition.

11. The medical records of Sri Sai Ram Hospital where the petitioner has been treated shows that, 'alleged h/o. RTA near Arehalli, Kanakapura main road". Considering



the endorsement dated 24.03.2012 wherein it is mentioned as "fall", the Tribunal has come to the conclusion that no case is made out and erred in dismissing the petition and the said order is erroneous. As per the patient history issued by the said hospital, it is stated that the petitioner met with the accident and complained of pain in right shoulder region and there was fracture on the right wrist. The Doctor on investigation observed the following injuries :

- i) fracture scapula, clavicle and ribs as described above;*
- ii) Hemo-pneumothorax on the right side;*
- iii) subcutaneous emphysema on the right side as described above.*

But the petitioner has not examined PW.2 Krishnappa who is the medical record officer whereas, the wound certificate as per Ex.P.6 issued by Sri Sai Ram hospital, case sheet as per Ex.P.12 have been produced. As per the wound certificate, it is noticed that the petitioner sustained three



grievous injuries and she was hospitalized for a period of three days and Ex.P.7-discharge summary also speak about the injuries and the treatment taken by the petitioner.

12. The petitioner has not filed any income proof. As the accident has occurred in the year 2014 and the petitioner was aged about 22 years, Rs.8,500/- is taken as the notional income of the petitioner. As the doctor has not assessed the disability aspect, the petitioner is not entitled for grant of compensation under the head '*loss of future earning capacity*'. However, having regard to the age, injuries suffered and other relevant factors, this court deems just and proper to award compensation to the petitioner under the heads of : *pain and suffering, loss of amenities, transportation, extra nourishment & attendant charges and loss of income during laid down period.*

13. In view of the aforesaid discussion, the appellant/claimant is entitled to compensation under the following heads :



| Particulars                                                  | Amount<br>in Rs.   |
|--------------------------------------------------------------|--------------------|
| Pain and suffering                                           | 50,000.00          |
| Loss of amenities                                            | 30,000.00          |
| Transportation, extra<br>nourishment, & attendant<br>charges | 30,000.00          |
| Loss of income during laid<br>down period (Rs.8500x4)        | 34,000.00          |
| <b>Total</b>                                                 | <b>1,44,000.00</b> |

14. Hence, the following :

**ORDER**

- i) Appeal is allowed;
- ii) The judgment and award passed by the Tribunal, in MVC No.3074/2012 dated 24.02.2014 is set aside;
- iii) The appellant/claimant is entitled to the compensation of Rs.1,44,000/- with interest at the rate of 6% p.a. from the date of petition till realization;
- iv) The respondent/Insurance Company is directed to deposit the compensation of Rs.1,44,000/- along with interest at 6% p.a., within one month from the date of this



**NC: 2026:KHC:12245**  
**MFA No. 3305 of 2014**

order;

v) On such deposit, the claimant is entitled to withdraw the compensation with accrued interest.

Sd/-  
**(P SREE SUDHA)**  
**JUDGE**

RS  
List No.: 1 SI No.: 74