



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

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

MISCELLANEOUS FIRST APPEAL NO. 4078 OF 2025 (MV-I)

BETWEEN:

1. THE MANAGING DIRECTOR
B.M.T.C. DIVISION, SHANTHINAGAR,
K.H. ROAD, BENGALURU -560027.
(RC OWNER OF BMTc BUS NO. KA-42-F-1696)
NOW THROUGH CHIEF LAW OFFICER B.M.T.C,
BANGALORE

...APPELLANT

(BY SRI. NAGARAJA K.,ADVOCATE)

AND:

1. SHRI. NAGARAJA. M
S/O. MUNIYAPPA,
AGED ABOUT 36 YEARS
R/AT NO.17, KARIYAPPANA PALYA,
CHIKKANAHALLI POST, BENGALURU - 562130.

...RESPONDENT

RESPONDENT SERVED

MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.01.04.2025 PASSED IN MVC NO.6889/2023 ON THE FILE OF THE XXI ADDITIONAL SMALL CAUSE JUDGE AND MACT, BENGALURU, (SCCH-23), AWARDDING COMPENSATION OF RS.7,41,700/- WITH INTEREST AT 6 PERCENT P.A. (EXCLUDING FUTURE MEDICAL EXPENSES) FROM THE DATE OF CLAIM PETITION TILL REALIZATION.IN TIME.

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

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA





ORAL JUDGMENT

Appellant counsel present. In spite of service of notice, the respondent/claimant did not turn up and has remained *exparte*.

2. Heard the arguments of the appellant's counsel.

3. This appeal is filed by appellant-BMTC against the award of the Tribunal in MVC No.6889/2023 dated 01.04.2025.

4. The petitioner-claimant met with an accident on 11.09.2023 and filed claim petition, claiming compensation of ₹18,00,000/-. The Tribunal considered the entire evidence on record and granted compensation of ₹7,41,700/- with interest at the rate of 6% per annum from date of petition till realisation.

5. Aggrieved by the said order, BMTC has preferred this appeal and mainly contenting that, as the driver of the BMTC bus has been examined wherein he has clearly



stated that he was driving the bus on the left side of the road and near Karekkallu Tandya, while taking a turn at a curve, the rider of the motorcycle came from opposite direction in a rash and negligent manner and dashed the bus on the front side right corner and thus, there is no negligence on the part of the driver of the BMTC bus. However, merely because charge sheet is filed against the driver of the BMTC bus and as the BMTC has not challenged the charge sheet filed against its driver, the Tribunal fixed the liability against the BMTC. It is further contended by the BMTC that, while proceeding on the curved road, the road users are expected to take much more care and caution. Claimant has not taken any care while proceeding on the curved road and thereby contributed for the accident.

6. Learned counsel for the appellant/BMTC further contended that the Tribunal has taken the income of the claimant as ₹16,000/- per month, which is on higher side and granted compensation for the laid up period of 4



months and it is also excessive. The amounts granted under the other heads are also excessive. Therefore, requested for reduction of the compensation. It is further stated that PW.3 doctor assessed the disability as 42% to the lower limb without following the guidelines and the Tribunal taking the disability of the claimant as 12% also is on higher side and thus requested for reduction of the compensation amount.

7. Considered the submissions of the learned counsel for the appellant-BMTC and perused the records.

8. The manner of accident shows that, while the petitioner/claimant was riding the motorcycle bearing Regn.No.KA.41 EK.9798 and reached Karekkallu Tanda, the BMTC bus bearing Regn.No.KA-42-F-1696 came in a rash and negligent manner and dashed the petitioner's motorcycle. It is stated that the petitioner was working as a teacher in a private school and earning ₹25,000/- per month. However, the respondent-BMTC in its written



statement stated that driver of the bus was taking a turn at a curve and at that time, the petitioner came from opposite direction and dashed to the front right side wheel of the bus, fell down and sustained injuries and in the cross examination of RW.1 (driver of the BMTC bus), it is stated that he admitted that accident occurred at a turning place and turning place is not "U" shape and that accident occurred on the right side of the road. So, admittedly the accident occurred at a turning place and there was a curve at the place of accident. No doubt charge sheet is filed against the driver of the bus. However, even the rider of the motorcycle should have been vigilant while entering the road from a curve road and therefore, this Court finds that there is contributory negligence on the part of the rider of the motorcycle also and it is to be fixed at the ratio of 10% on the rider and that of the driver of the bus at 90%.

9. It is stated that petitioner was a Teacher earning ₹25,000/- per month but he has not filed any income



proof. However, as the accident occurred in the year 2023, notional income for the year 2023 is ₹16,000/- and the Tribunal has rightly taken and as the petitioner was aged 34 years, multiplier of "16" is rightly adopted. The petitioner examined the doctor as PW.3 and he has stated that petitioner sustained following injuries :

- 1) Fracture of right femur shaft;*
- 2) Multiple abrasions over both lower limbs.*

and out of which, first injury is grievous and the second one is simple in nature. He was hospitalised for 9 days and as per the discharge summary-Exhibit P.9, he underwent surgeries in the form of CRIF with interlocking and the Doctor has assessed the physical disability as 42% to the left lower limb and it was observed that fractures are well united however, whole body disability was not assessed. Therefore, the Tribunal has rightly considered 12% disability and this court finds no reason to interfere with the said percentage of disability.



10. In view of the same, compensation awarded by the Tribunal towards "loss of future earning capacity" at Rs.3,68,700/- (16,000x12x16x12%) is just and reasonable and it is confirmed. Further, compensation awarded under all other heads are also just and reasonable and are confirmed. Thus, the compensation awarded by the Tribunal at Rs.7,41,700/- to the petitioner/claimants needs no interference.

11. However, as the contributory negligence is fixed at 90% on the BMTC and 10% on the petitioner/claimant by this Court, the BMTC is directed to deposit only 90% of the compensation amount.

12. It is noticed that stay of the impugned judgment and award has been granted subject to the appellant-BMTC depositing 50% of the award amount along with accrued interest before the Tribunal but as the BMTC had not deposited the said amount, stay has been vacated.



13. For the aforesaid reasons, the following order is passed :

ORDER

- i) The appeal is ***allowed in part.***
- ii) The appellant-BMTC is directed to deposit 90% of ₹7,41,700/- with interest at the rate of 6% within one month from the date of this order.

On such deposit, petitioner is permitted to withdraw the entire amount along with interest accrued on it.

** The statutory amount in deposit shall be transferred to the tribunal.*

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

RS
List No.: 1 SI No.: 43