



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF OCTOBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO. 4910 OF 2023 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 1232 OF 2023 (MV-D)

IN MFA No. 4910/2023

BETWEEN:

1. SRI PADMARAJU S.L.
S/O LATE LAKKAPPA
AGED ABOUT 46 YEARS
2. KUM. NAVYA P
D/O PADMARAJU S.L
AGED ABOUT 16 YEARS
3. KUM. HARSHITHA P
D/O PADMARAJU S.L
AGED ABOUT 14 YEARS
4. KUM. NISARGA P
D/O PADMARAJU S.L
AGED ABOUT 12 YEARS

THE APPELLANT NOS. 2 TO 4
ARE MINOR REPRESENTED BY
THEIR FATHER AND NATURAL GUARDIAN
THE APPELLANT NO.1



NC: 2025:KHC:40362-DB
MFA No. 4910 of 2023
C/W MFA No. 1232 of 2023

ALL ARE RESIDING AT NO. 65, III STGE
III BLOCK, BASAVESHWARANAGAR
BANGALORE - 560079.

...APPELLANTS

(BY SRI. K V SHYAMAPRASADA.,ADVOCATE)

AND:

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

...RESPONDENT

(BY SRI.D. VIJAYAKUMAR., ADVOCATE)

THIS MFA IS FILED U/S 173(1) OF MV ACT, 1988
PRAYING TO AGAINST THE JUDGMENT AND AWARD
DATED 01.12.2022 PASSED IN MVC NO.628/2022 ON
THE FILE OF THE VIII ADDITIONAL SCJ AND ACMM,
MEMBER, MACT, BENGALURU, SCCH-5, PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION
SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA NO. 1232/2023

BETWEEN:

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

...APPELLANT

(BY SRI. D VIJAYAKUMAR.,ADVOCATE)

AND:



NC: 2025:KHC:40362-DB
MFA No. 4910 of 2023
C/W MFA No. 1232 of 2023

1. SRI. PADMARAJU. S. L.
S/O. LATE LAKKAPPA,
AGED ABOUT 45 YEARS,
2. KUM. NAVYA. P
D/O. PADMARAJU. S. L.,
AGED ABOUT 15 YEARS,
3. KUM. HARSHITHA. P
D/O. PADMARAJU. S. L.,
AGED ABOUT 13 YEARS,
4. KUM. NISARGA. P
D/O. PADMARAJU. S. L.,
AGED ABOUT 11 YEARS,

SINCE THE
RESPONDENTS NO.2 TO 4
ARE MINORS,
REP BY THEIR FATHER AND
NATURAL GUARDIAN,
SRI. PADAMRAJU S. L.,
RESPONDENT NO.1

ALL ARE R/AT NO. 65, III STAGE,
III BLOCK,
BASAVESHWARANAGAR,
BENGALURU-560 079.

...RESPONDENTS

(BY SRI. K V SHYAMAPRASADA.,ADVOCATE
R2-R4 ARE MINORS REP BY R1)

THIS MFA IS FILED U/S 173(1) OF MV ACT 1989
AGAINST THE JUDGMENT AND AWARD DATED
01.12.2022 PASSED IN MVC NO.628/2022 ON THE FILE



NC: 2025:KHC:40362-DB
MFA No. 4910 of 2023
C/W MFA No. 1232 of 2023

OF THE VIII ADDITIONAL SCJ AND ACMM, MEMBER,
MACT, BENGALURU, SCCH-5, AWARDING
COMPENSATION OF RS.33,19,000/- WITH INTEREST AT
6 PERCENT P.A. FROM THE DATE OF PETITION TILL
REALIZATION.

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

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE B M SHYAM PRASAD)

These cross appeals are against the Judgment
and Award dated 01.12.2022 in MVC No.628/2022
on the file of the VIII Additional Small Causes Judge
and Additional Chief Metropolitan Magistrate and the
Motor Accident Claims Tribunal [SCCH-5], Bengaluru
[for short, *'the Tribunal'*]. The Tribunal by this
impugned Judgment and Award has allowed the
claim petition in MVC No.628/2022 in part granting



to the claimants a total sum of Rs.33,19,000/- with interest at the rate of 6% per annum.

2. The claimants are the husband and three minor children of the deceased, Ms. Hemamala. The Tribunal has computed compensation as aforesaid under the following heads while providing for deduction towards interim compensation of Rs.25,000/- paid by M/s. Bangalore Metropolitan Transport Corporation [BMTC].

Sl. No.	Heads	Compensation amount [Rs.]
1	Loss of Dependency	30,24,000/-
2	Loss of Consortium to the husband	40,000/-
3	Loss of parental consortium to petitioner Nos.2 to 4 [Rs.40,000/- each]	1,20,000/-
4	Loss of estate	15,000/-
5	Funeral Expenses	15,000/-
6	Medical Bills	1,30,000/-
Total		33,44,000/-
Less: Interim maintenance paid by BMTC		25,000/-
Grand Total		33,19,000/-

The claimants and the BMTC, for reasons of convenience, are referred to as *the Claimants* and '*the Transport Corporation*'. The claimants' appeal for



enhancement is in MFA No.4910/2023, and the Transport Corporation's appeal is in MFA No.1232/2023.

3. Ms. Hemamala, who was aged about 33 years, has met with the fatal accident on 20.11.2021 at about 9.15 am while she was under the elevated metro station at Srirampura, Bengaluru. Ms.Hemamala has succumbed to the injuries on the same day but at 3.45 p.m. There is no dispute about these aspects or that the claimants have not established that the deceased's vocation though they have asserted that she was working as a Tele caller in M/s Pro Win Management Services Chamrajpet Bengaluru and drawing a monthly salary of Rs.20,000/-.

4. The Tribunal, in the circumstances of the case, has opined that the loss of dependency to the claimants must be computed taking the notional income of Ms. Hemamala at Rs.15,000/- per month



with addition of 40% thereof towards future prospects deducting 1/4th towards deceased's personal expenses. The Tribunal has applied the multiplier of '16' because of the evidence that Ms.Hemamala was 35 years as of the date of the accident.

5. Mr. D. Vijayakumar, the learned counsel for the Transport Corporation, is categorical that the Transport Corporation disputes the Tribunal's finding on the reason for the accident otherwise there is no reason for interference with the quantum of compensation. Mr. K.V. Shyamprasad, the learned counsel for the claimants, while justifying the Tribunal's finding on the reason for accident, submits that this Court must grant enhancement in the compensation awarded by the Tribunal to the first claimant for loss of his wife and to the second to fourth respondents for loss of their mother. In the



light of these principal submissions, the questions for consideration are:

- [a] Whether the Tribunal is justified in its finding on the reason for the accident; and*
- [b] Whether there must be any enhancement in the compensation towards loss of consortium.*

Regarding Question No.1:

6. The claimants have examined PW.2 [Mr. Bharath M.] as an independent witness to support their case that the driver of the Transport Corporation's bus was negligent and responsible for the accident. The Transport Corporation has examined RW 1 [its driver - Mr. Jagadeesh C.G.]. Mr.Bharath M. has stated that he was traveling at a distance of about 10-15 meters behind the bus when the accident occurred and that the accident is because the driver of the Transport Corporation's bus touched the deceased's two-wheeler when it was at the distance of three feet from the footpath.



Mr.Jagadeesh C.G, [*the driver of the bus*] has stated [*in his cross examination*] that Ms. Hemamala was rash and negligent in trying to overtake his bus though there was a narrow space between the bus and the barricade and that the deceased dashed against a pedestrian who was walking on the footpath and came under the front tyre.

7. If this is the ocular evidence, the claimants have produced, apart from other documents, a copy of the rough sketch of the case of accident, and even the Transport Corporation has produced this sketch. The Transport Corporation has also produced three photographs with a CD, and these are marked as Exs.R5 and R5A.

8. Mr. D. Vijayakumar submits, relying upon paragraph 14 of the Tribunal's judgment, that the Tribunal could not have been held that the driver of the Transport Corporation's bus negligent in view of its own finding that the deceased was trying to



overtake the bus and touched the bus while attempting to go in front of the bus. The learned counsel also invites this Court's attention to the photographs to bolster his case. Mr. K. V. Shyamprasad disputes the evidentiary value of the photographs contending that Mr. Jagadeesh C.G. has filed an affidavit under Section 65B of the Indian Evidence Act, 1872 stating that M/s. BMRCL has furnished the CCTV footage of the accident to him, but nobody from the Metro Corporation is examined.

9. This Court must observe from the sketches that the place of the accident is very close to the Pedestrian Barricade separating the footpath and that the deceased has hit a pedestrian, who had crossed the Barricade, before falling down. The evidence does not speak about any injury suffered by the pedestrian or why the pedestrian is not examined. This pedestrian's evidence would definitely have thrown light.



10. The probative value of the evidence of Mr. Bharath M [PW.2]—though examined as an independent witness—is vastly undermined by the admitted fact that he was way behind the vehicle and that the accident was in front of him and within a narrow space. This Court finds considerable force in the submissions by Mr. K. V. Shyamaprasad that the probative value of the photographs of the CCTV footage/footage of the accident would be highly probative if it were introduced through the employee of Metro Corporation. As such, the claimants have not conclusively established the reason for the accident.

11. Mr. Jagadeesh C G says that he received a forward of the footage from the Metro and that the computer, which is used to record and transfer the data, was used regularly to store and process the information, but this Court must observe that it



could not be for him to state about the status of the computer which is used to retrieve CCTV footage and transfer the same. The accident is under the elevated metro station, and the deceased has tried to pass the bus from the right-hand side within the narrow space between the bus and the footpath separated by a Pedestrian Barricade.

12. These circumstances must be examined in the light of the evidence of Sri Jagadeesh C.G., who in his chief examination, is categorical that there was *contributory negligence* by Ms. Hemamala. The Transport Corporation, in the light of the evidence and other circumstances relied upon, cannot dispute its liability entirely, and it must answer its liability proportionate to the contribution by its driver. This Court, given the circumstances in which the accident has happened and the nature of two vehicles involved, is of the view that apportionment of negligence between the driver of the Transport



Corporation's bus and the deceased must be in the ratio of 60:40 and this would enable just and reasonable compensation to the claimants who have respectively lost a spouse and a mother.

Regarding Question No.2:

13. The accident has occurred on 20.11.2021 and the Tribunal has granted to each of these claimants compensation under consortium in a sum of Rs.40,000/- but because the accident is beyond three years even from the date of the judgment of the Apex Court in ***National Insurance Co. Ltd. v. Pranay Sethi - 2017 (16) SCC 680***. The claimants are entitled for enhancement at 10% not just for consortium but also for other conventional heads and that would be in a sum of Rs.19,000/-. This Court on 09.09.2025 had condoned the delay on 122 days in the claimants' appeal observing that they would not be entitled for interest on the delayed period, but given the quantum of enhancement, it is held that the



claimants will be entitled to the interest during this period. In the light of the above, the following:

ORDER

The appeals are disposed of modifying the Tribunal's Judgment and Award dated 01.12.2022 in MVC No.628/2022:

- [a]** Declaring that the contributory negligence by the deceased, Ms. Hemamala, and the driver of the Transport Corporation's bus in the ratio of 40:60.
- [b]** The claimants are granted total compensation in a sum of **Rs.33,38,000/-** [Rs.33,19,000/- *as awarded by the Tribunal and Rs.19,000/- awarded by this Court*].
- [c]** The amount in deposit in the Transport Corporation's appeal shall be transferred forthwith to the Tribunal for disbursement subject to its orders on apportionment and the deposit.



- [d]** The Transport Corporation shall deposit the remaining compensation within eight weeks along with interest at 6% per annum from the date of the claim petition till the date of deposit.
- [e]** If the Transport Corporation cannot deposit the compensation in terms of the above stipulation shall be liable to pay interest for the delayed period at 9% per annum.

Sd/-
(B M SHYAM PRASAD)
JUDGE

Sd/-
(T.M.NADAF)
JUDGE

SA
ct:sr