IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO.4282 OF 2025

(MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.2392 OF 2024

(MV-D)

IN MFA No.4282/2025

BETWEEN:

1. MRS. HEMALATHA.P.K., W/O
LATE.RAMACHANDRAN NAIR @ CHANDRAN
NAIR, AGED 63 YEARS,

2. LITHA CHANDRAN,
D/O LATE. RAMACHANDRAN NAIR
@ CHANDRAN NAIR, AGED 36 YEARS,

3. BABY AMEYA ARUN
D/O ARUN.A.KUMAR,
AGED ABOUT 9 YEARS,

(THE APPELLANT NO.3 IS MINIOR AND
REP. BY HER NATURAL GUARDIAN MOTHER,
THE APPELLANT NO.2 HEREIN.)
ALL ARE R/O D.NO.3-2-53/6,

DWARAKA NAGAR,
KULAI POST, MANGALURU

...APPELLANTS

(BY SRI. GURUPRASAD B.R., ADVOCATE)

AND:

THE MANAGING DIRECTOR
K.S.R.T.C., CENTRAL OFFICE,
K.H.ROAD, BENGALURU-560027,
LOCAL OFFICE: DIVISIONAL OFFICE,
K.S.R.T.C., BEJAI,
MANGALURU-575004.

...RESPONDENT

(BY SRI. SAMARTH PRAKASH, ADVOCATE)

THIS MFA IS FILED U/S.173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DT.28.11.2023 PASSED IN MVC NO. 1334/2021 ON THE FILE OF THE PRL. DISTRICT AND SESSIONS JUDGE, MEMBER, MACT-1 D.K.MANGALURU, ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION AND ETC.

IN MFA NO. 2392/2024

BETWEEN:

1. THE MANAGING DIRECTOR
   KSRTC, CENTRAL OFFICE,
   K.H. ROAD, BENGALURU-560 027,
   LOCAL OFFICE, DIVISIONAL OFFICE,
   KSRTC, BEJAI,
   MANGALORE-575 004,
   (REP. BY ITS CHIEF LAW OFFICER)

...APPELLANT

(BY SRI. SAMARTH PRAKASH, ADVOCATE)

AND:

1. MRS. HEMALATHA.P.K.
   WIFE OF LATE N.RAMACHANDRAN NAIR @
   CHANDRAN NAIR,
   AGED ABOUT 62 YEARS,

2. LITHA CHANDRAN
   WIFE OF LATE N.RAMACHANDRAN NAIR @
   CHANDRAN NAIR,
   AGED ABOUT 35 YEARS,

3. BABY AMEYA ARUN
   DAUGHTER OF ARUN A.KUMAR,
   AGED ABOUT 8 YEARS,

   (THE RESPONDENT NO.3 IS MINOR,
   REP. BY HER NATURAL GUARDIAN
   THE RESPONDENT NO.2 HEREIN)

ALL ARE RESIDING AT NO.3-2-53/6,
DWARAKA NAGAR, KULAI POST,
MANGALORE.

...RESPONDENTS

(BY SRI. GURUPRASAD.B.R., ADVOCATE)

THIS MFA IS FILED U/S.173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DT.28.11.2023 PASSED IN MVC NO.1334/2021 ON THE FILE OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, MACT-I, D.K, MANGALURU, AWARDING COMPENSATION OF RS.6,52,500/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL REALIZATION AND ETC.

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

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

Heard the arguments of the learned counsel for the appellants and learned counsel for the respondent-KSRTC. The ranks of the parties are retained as per Tribunal for the sake of convenience.

2. This appeal is filed by the appellants/claimants under Section 173(1) of Motor Vehicles Act, 1988, challenging the judgment and award dated 28.11.2023 passed in MVC No.1334/2021 on the file of the Principal District and Sessions Judge, Member, MACT-I, D.K., Mangaluru.

3. N.Ramachandran Nair@Chandran Nair met with an accident on 25.08.2021. His wife, divorced daughter and grand-daughter filed claim petition claiming compensation of Rs.30,00,000/-. Tribunal considering the entire evidence on record, granted an amount of Rs.8,70,000/- with interest at the rate of 6% per annum from date of petition till realization. It is further stated

that there is contributory negligence of deceased-N.Ramachandran Nair as 25% and that of the driver of the Bus as 75% and accordingly, the tribunal directed to deposit the amount of Rs.6,52,500/- with interest at the rate of 6% per annum from date of petition till realization. Aggrieved by the said order, appellants preferred an appeal mainly contending that the accident occurred on N.H.66 and it is a four lane road. The deceased after crossing the first half of the four lane, had almost reached the other end of the second half of the four lane and at that time, the offending vehicle came in a rash and negligent manner coming to its extreme left hand side and dashed the deceased. As per the spot mahazar, there are brake marks of the Bus seen for a distance of 25 feet from the accident spot. As such charge sheet was filed against the driver of the offending vehicle for his rash and negligence. But the tribunal wrongly fixed 25% of contributory negligence on the part of the deceased. Thus requested for modification of the order.

4. The respondent-KSRTC also preferred an appeal in MFA.No.2392/2024 against the above impugned judgment and award, mainly contending that the Tribunal erred in taking the income of the deceased as Rs.15,000/- per month. As per Ex.P9-salary certificate, which clearly evidences that the deceased was getting a salary of Rs.13,950/- per month. But the Tribunal has taken the notional income of the deceased as Rs.15,000/- per month as per the guidelines of Karnataka State Legal Services Authority though there is proof of income. It is further stated that the daughter of the deceased is working as a Nurse in A.J. Hospital and earning Rs.16,000/- per month as admitted by her. As such she is not dependent on the deceased and grand-daughter is also not dependent on him. As per the FIR and spot mahazar, the spot where accident occurred was at a distance of 15 feet from the road divider and width of the road on one side is 25 feet and it shows that driver of the offending vehicle made all his efforts to avoid the accident. Further, the Tribunal

failed to observe that there was no zebra crossing for pedestrian to cross the road at the place of accident. Therefore, the deceased ought to have been extra cautious while crossing the road. But he failed to do so. The amounts granted under the conventional heads are on higher side and thus requested for modification of the order.

5. Learned counsel for the respondent-KSRTC contended that the deceased met with an accident in the year 2021 and his daughter obtained divorce on 10.05.2022. As such she is not dependent on him and so also grand-daughter is not depending on him and they are not entitled for any compensation. As the wife alone is the dependent, 50% is to be deducted towards personal expenses and he further stated that as per Ex.P9, the income of the deceased is to be taken as Rs.13,950/- per month, not as Rs.15,000/- per month. Further, the deceased-N.Ramachandran Nair was crossing the highway negligently where there was no zebra crossing. As such,

the Tribunal rightly assessed contributory negligence of 25% on the part of the deceased and it is to be confirmed. He further relied upon the judgment of the Delhi High Court in the case of ***Malini Chaudhri vs. Ranjit Chaudhri and Anr in Mat.App.(F.C.) 89 of 2018 dated 13.09.2023***, in which it was held that "A divorced daughter is not entitled to maintenance under the Hindu Adoption and Maintenance Act, 1956 from her mother and brother as she does not fall within the category of "dependents" as defined under the Act." He also relied upon the judgment of this Court in ***MFA.No.4974/2015 dated 19.04.2024***, where it was observed as follows:

> *"The facts are sufficiently stated and do not require reiteration. The issue revolves around a pedestrian walking/crossing on the expressway.*
>
> *It is a commonsense that Pedestrians, three wheelers, motorcycles, bicycles, bullock carts are not allowed in the expressway. But as any other expressway, it is a hard shoulder or an extra lane where one may park its vehicle and walk a distance. But walking/crossing on the expressway is prohibited*

and may incur fine if someone tries to do so. For their safety, pedestrians are not allowed on expressways and in tunnels. Personal Mobility Devices (PMD's) are not allowed on all roads and therefore, cannot travel on expressways and in tunnels."

6. Learned counsel for the respondent-KSRTC further filed Karnataka Traffic Control (Regulation of Traffic on Highways) Rules, 1979 and relied upon Rule 5(4), which reads as follows:

"(4) No pedestrian shall cross any highway except at the demarcated pedestrian crossings wherever they exist. Pedestrians shall obey all reasonable directions given by the police at those crossings."

7. Admittedly, the deceased-N.Ramachandran Nair was aged 70 years as on the date of accident. It was stated that he was working as a security guard and earning Rs.15,000/- per month. But on examination of the employer and also Ex.P9-salary certificate, in which his income was shown as Rs.13,950/-. It is stated that the

employer in his evidence says that he was also paying Rs.1,500/- towards food and drinks. But it is not reflected in the salary certificate. Admittedly, Ex.P9 is filed before the Tribunal and it was also proved by examining the employer. Considering the occupation and age of the deceased, this Court finds it reasonable to take his income as Rs.13,950/- per month and as he was aged 70 years, the multiplier is to be taken as '5'.

8. Learned counsel for the appellants stated that when the daughter of the deceased was carrying the third petitioner, she was divorced by her husband as she was staying with her father, she was shown as dependent. However she is a divorcee daughter. Merely because divorce is granted subsequent to the accident, it cannot be stated that she was not a dependent on the deceased-N.Ramachandran Nair. Therefore, both the second and third petitioners are dependents on deceased-N.Ramachandran Nair and they are entitled for the apportionment of the compensation. As the age of the

deceased-N.Ramachandran Nair was 70 years at the time of accident, he is not entitled for 'future prospects' and as he is married, 1/3rd is to be directed towards his personal expenses. Therefore, 'loss of future earning capacity' comes to Rs.5,58,000/- (13,950x12x5-1/3=5,58,000).

9. The first petitioner-wife is entitled for consortium of Rs.44,000/- towards spousal consortium. Second petitioner is entitled for Rs.44,000/- towards parental consortium and they are also entitled for Rs.33,000/- under the Conventional Head. The total compensation comes to Rs.6,79,000/-. Hence, compensation is reduced from Rs.8,70,000/- to Rs.6,79,000/-.

10. As per the manner of accident mentioned in the application, while the deceased-N.Ramachandran Nair was crossing the road on N.H.66, the KSRTC Bus bearing Reg.No.KA-19-F-3140 came in a rash and negligent

manner with high speed and dashed him. As a result, he fell down, sustained injuries and died subsequently.

11. Learned counsel for the appellants stated that tire marks are visible upto 25 feet towards northern side of the road and the deceased almost crossed the N.H. and it is further stated that N.H. was passing within the city limits. Whereas the respondent's counsel stated that it is in clear violation of the Karnataka Traffic Control (Regulation of Traffic on Highways) Rules, 1979 and the deceased was not supposed to cross the highway. Therefore, this Court finds that the contributory negligence of the N.Ramachandran Nair is to be considered as 10% and that of the driver of the Bus as 90%. Therefore, the respondent-KSRTC is directed to deposit 90% of Rs.6,79,000/- i.e., Rs.6,11,100/- with interest at the rate of 6% per annum within one month from the date of this order.

12. It is stated that the respondent-KSRTC has already deposited 75% of the compensation awarded by the Tribunal. Therefore, the respondent-KSRTC is directed to deposit the balance amount along with interest within one month from the date of this order. On such deposit, the second petitioner/daughter is permitted to withdraw Rs.1,50,000/- along with interest accorded on it and first petitioner/wife of the deceased is permitted to withdraw the balance amount along with interest accord on it.

Accordingly, both the appeals are ***allowed in part***.

Sd/-
(P SREE SUDHA)
JUDGE

SMJ
List No.: 1 Sl No.: 38