HC-KAR

NC: 2026:KHC:12067
MFA No. 8637 of 2017
C/W MFA.CROB No. 144 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 8637 OF 2017 (MV-D)

C/W

MFA CROSS OBJECTION NO. 144 OF 2018 (MV-D)

IN MFA No. 8637/2017

BETWEEN:

1. DIVISIONAL CONTROLLER
KARNATAKA STATE ROAD TRANSPORT
CORPORATION,
RURAL DIVISION, BANNIMANTAP,
MYSURU-570015.

...APPELLANT

(BY SRI. ASHOK KUMAR M., ADVOCATE)

AND:

1. SMT SARVAMANGALA
W/O T.R.SHIVAPPA,
RESIDING AT
THENKALAKOPPALU VILLAGE,
BANNIUPPE POST,
KASABA HOBLI,
HUNSUR TQ. MYSORE DISTRICT.

2. SRI T R SHIVAPPA
S/O LATE RUDRAPPA,
RESIDING AT
THENKALAKOPPALU VILLAGE,

BANNIUPPE POST,
KASABA HOBLI,
HUNSUR TQ. MYSORE DISTRICT.

...RESPONDENTS

(BY SRI. V PADMANABHA KEDILAYA., AND

SMI. SUMA KEDILAYA, ADVOCATES FOR R1 AND R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 23.09.2016 PASSED IN MVC NO.523/2013 ON THE FILE OF THE SENIOR CIVIL JUDGE, COURT OF SMALL CAUSES, MACT, MYSURU, AS A PRESIDING OFFICER, MACT, MYSURU, AWARDING COMPENSATION OF RS.8,38,120/- WITH INTEREST @ 9% P.A. FROM THE DATE OF PETITION TILL REALIZATION.

<u>IN MFA.CROB NO. 144/2018</u>

<u>BETWEEN:</u>

1. SMT SARVAMANGALA
   W/O T R SHIVAPPA,
   AGED ABOUT 50 YEARS,
   R/AT THENKALAKOPPALU VILLAGE,
   BANNIUPPE POST, KASABA HOBLI,
   HUNSUR TALUK- 570015

2. SRI T R SHIVAPPA
   S/O LATE RUDRAPPA,
   AGED ABOUT 61 YEARS,
   R/AT THENKALAKOPPALU VILLAGE,
   BANNIUPPE POST, KASABA HOBLI,
   HUNSUR TALUK- 570015

...CROSS OBJECTORS

(BY SRI. PADMANABHA KEDILAYA V. AND

SMT.SUMA KEDILAYA, ADVOCATE)

AND:

1. DIVISIONAL CONTROLLER
   KSRTC RURAL DIVISION,
   BANNIMANTAP, MYSURU-570015

...RESPONDENT

(BY SRI. ASHOK KUMAR M.,ADVOCATE)

THIS MFA CROB IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 23.09.2016 PASSED IN MVC NO.523/2013 ON THE FILE OF THE SENIOR CIVIL JUDGE, COURT OF SMALL CAUSES, MACT, MYSURU, AS A PRESIDING OFFICER, MACT, MYSURU, PARTLY ALLOWING THE CLAIM PETITITON FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

IN MFA No.8637/2017

Heard the arguments of both sides.

2. This appeal is filed against the judgment and award of the Tribunal dated 23.09.2016 passed by the Judge, Additional Small Causes and Senior Civil Judge, Mysore (henceforth referred to as 'Tribunal') in MVC No.523/2013.

3. One TS Yogesh Kumar met with an accident on 09.06.2013. His parents have filed a claim petition claiming compensation of Rs.15,05,000/-. The Tribunal after considering the entire evidence on record, awarded compensation of Rs.8,38,120/- with interest at the rate of 9% per annum from the date of petition till realisation.

4. Aggrieved by the said judgment and order of the Tribunal, the Divisional Controller of KSRTC has preferred MFA No.8637/2017 and mainly contended that there was a contributory negligence on the part of the deceased and that the Tribunal erred in taking 50% towards future prospects. It is further contended that the gross salary of the deceased included allowances such as HRA, uniform allowance, conveyance allowance and sales incentives and thus, the Tribunal ought to have taken only the net salary for the purpose of computation. It is also contended that the multiplier is erroneously taken as 16% instead of 13%, considering the age of the parents. It is further contended that the amount granted under the other heads are excessive and that the rate of interest is also on higher side. Hence, he requested for reduction of the compensation.

5. Learned counsel for the respondents submits that deceased was working as a salesman in Kalyan Jewellers and had joined the service on 20.02.2013. As per Ex.P13, the accident occured within 4 months of joining the service. In the said document, total salary is shown as Rs.12,000/- per month. The claimants have also filed Ex.P9, the salary slip for the month May 2013, wherein the total salary shown as Rs.19,116/-. Though a salary slip for the month of June 2013 has also been produced, in the said document the total earnings are shown as Rs.5,229/-, loss of pay is shown as Rs.3,133/-.

6. The Tribunal, considering the said documents, has taken the income of the deceased at Rs.5,230/- per month. Admittedly, the accident occurred on 09.06.2013 and the deceased had worked only for nine days in the month of June. Therefore, the salary reflected in Ex.P9 for the said month cannot be considered for determining the monthly income.

7. As per the material on record, the deceased was drawing a gross salary of Rs.9,116/- per month, out of which a sum of Rs.780/- was deducted towards Provident Fund, which is a statutory deduction. Hence, after deducting Rs.780/- from

Rs.9,116/-, the net monthly income of the deceased comes to Rs.8,336/-, which is required to be taken as his monthly income.

<u>IN MFA.CROB No. 144 of 2018</u>

8. The cross appeal is filed by the claimants in MFA Crob. No.144/2018.

9. It is contended that the deceased was working as a salesman in Kalyan Jewellers, earning about Rs.15,000/- per month and approximately Rs.1,000/- per day. In support of the said contention, the claimants have examined the Supervisor of the said establishment as PW-3.

10. It is further contended that the Tribunal has awarded interest at the rate of 9% per annum, whereas the claimants are entitled for higher compensation by taking the income at Rs.12,000/- per month, and the amounts awarded under the other heads needs to be increased.

11. Aggrieved by the said order, it is contended that the Tribunal erred in not properly considering the salary of the deceased and in excluding several allowances. As per Ex.P9, the gross salary of the deceased is shown as Rs.9,116/-, from

which a sum of Rs.931/- is deducted towards statutory contributions such as PF and ESI.

12. Therefore, this Court finds it reasonable to take the income of the deceased at Rs.9,116/- per month as per Ex.P9. The date of birth of the deceased is shown as 07.03.1982 and the accident occurred on 09.06.2013. Thus, the deceased was aged 31 years at the time of the accident and was working as a private employee. Hence, the multiplier of '16' is to be taken.

13. In view of the law laid down by the Hon'ble Supreme Court in the case of ***National Insurance Company vs. Pranay Sethi***, the claimants are entitled to an addition of 40% towards future prospects, which comes to Rs.12,762/- (Rs.9,116 + 40%). Since the deceased was a bachelor, 50% of the income is required to be deducted towards personal and living expenses. Accordingly, the loss of dependency comes to Rs.12,25,152/- (Rs.12,762 × 12 × 16 × 50%).

14. The claimants, being the parents of the deceased, each of them entitled for an amount of Rs.40,000/- towards 'consortium' and are also entitled to Rs.30,000/- towards 'conventional heads'.

15. Thus in all, the claimants are entitled for the following compensation:-

Particulars	**Amount in Rs.**
Loss of dependancy	12,25,152
Consortium (40,000 x 2)	80,000
Conventional Heads	30,000
Total	**13,35,152**

16. The Tribunal has awarded the compensation of Rs.8,38,120/- but the claimants are entitled to total compensation of Rs.13,35,152/-. Therefore, the claimants are entitled to enhanced compensation of **Rs.4,97,032/-** (Rs.13,35,152 - Rs. 8,38,120).

ORDER

i. MFA.CROB No.144/2018 filed by the claimants is ***allowed in part***.

ii. The judgment and award dated 23.09.2016passed by the Judge, Additional Small causes and Senior Civil Judge, Mysuru, is modified. The claimant is entitled for enhanced compensation of **Rs.4,97,032/-** along with interest at the rate of 6% per annum from the date of claim petition till the date of deposit.

iii. MFA No.8637/2017 is filed by the Divisional Controller, KSRTC is ***dismissed***

iv. KSRTC, which has already deposited 50% of the compensation amount, is directed to deposit the balance compensation amount along with interest at the rate of 6% per annum within a period of one month from the date of this order.

v. On such deposit, both of the claimants are permitted to withdraw the entire amount along with interest equally.

vi. Draw award accordingly.

Sd/-
(P SREE SUDHA)
JUDGE

SMC
List No.: 1 Sl No.: 70