



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

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

MISCELLANEOUS FIRST APPEAL NO. 4516 OF 2017 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 4517 OF 2017 (MV-I)

IN MFA No. 4516/2017

BETWEEN:

1. SMT. SHREEJA
W/O LATE GANESH
AGED ABOUT 31 YEARS,
2. MISS. VERSHA
D/O. LATE GANESH
AGED ABOUT 11 YEARS,
3. SMT. RADHA
W/O LATE SUBRAMANI,
AGED ABOUT 62 YEARS,
4. SUNILKUMAR
S/O LATE SUBRAMANI,
AGED ABOUT 27 YEARS,

APPELLANT NO.2 IS A MINOR
AND REPRESENTED BY HER LEGAL GUARDIAN
BY HER MOTHER I.E., THE APPELLANT NO.1



ALL ARE RESIDING AT:
NO.39, 3RD CROSS,
JAIBHARATH NAGAR,
MARUTI SEVA NAGAR,
BENGALURU - 560 033.

...APPELLANTS

(BY SRI. SATISH R GIRJI, ADVOCATE)

AND:

1. THE MANAGING DIRECTOR
KSRTC, CENTRAL OFFICE
DOUBLE ROAD, SHANTHINAGAR,
BENGALURU - 560 009.
2. C K RAMESH
S/O KRISHNEGOWDA
KSRTC BUS DRIVER
BADGE NO. 526,
ARKALGODU BUS DEPOT
ARKALGODU
HASSAN DISTRICT - 573 201.
3. M/S. UNITED INDIAN INSURANCE CO LTD.,
DIVISIONAL OFFICE, B.M.ROAD
HASSAN - 573 201.

...RESPONDENTS

(BY MS. RENUKA H.R, ADVOCATE FOR R1;
SRI. K. NAGARAJAIAH, ADVOCATE FOR R3;
R2 SERVED AND UNREPRESENTED)



NC: 2026:KHC:16488-DB
MFA No. 4516 of 2017
C/W MFA No. 4517 of 2017

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 21.02.2017 PASSED IN MVC NO.4750/2010 ON THE FILE OF THE III ADDITIONAL SENIOR CIVIL JUDGE, AND MACT AT BENGALURU AND ETC.,

IN MFA NO. 4517/2017

BETWEEN:

1. S MANJUNATH
S/O SHIVALINGA
AGED ABOUT 32 YEARS,
R/AT HOUSE NO. 5416,
NEAR TANK, HORAMAVU
KALKERI
BENGALURU - 560 043.

...APPELLANT

(BY SRI. SATISH R GIRJI, ADVOCATE)

AND:

1. THE MANAGING DIRECTOR
KSRTC, CENTRAL OFFICE
DOUBLE ROAD, SHANTHINAGAR,
BENGALURU - 560 027.

...RESPONDENT

(BY SRI. KARTHIKEYAN B S, ADVOCATE)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 21.02.2017 PASSED IN MVC NO.7434/2011 ON THE FILE OF THE III ADDITIONAL SENIOR CIVIL JUDGE AND MACT AT BENGALURU (SCCH:18) AND ETC.,

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



CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M.NADAF)

These two appeals being MFA.No.4516/2017 and MFA.No.4517/2017 by the claimants in MVC Nos.4750/2010 & 7434/2011, challenging the judgment and award dated 21.02.2017 passed by III Addl.Senior Civil Judge and Motor Accident Claims Tribunal, Bengaluru (SCCH-18) ('Tribunal' for short).

2. The Tribunal by the impugned award, dismissed both the claim petitions on the ground that the claimants have failed to prove the rash and negligent driving by the driver of the KSRTC bus and the owner of the Maruti Omni van was not a party.

3. The parties are referred to as per their rankings before the Tribunal.



4. The brief factual matrix leading to filing of these appeals are as follows:

In an accident occurred on 27.10.2009, the driver of the Maruti Omni van bearing registration No.KA-03-C-8130, suffered injuries and died and an inmate received severe injuries. As per the police records, the van in a haste to overtake a lorry, hit against the oncoming KSRTC bus resulting in the death of the driver and injuries to the inmate of the Maruti Omni van. The legal representatives of the driver of the Maruti Omni van and injured claimant have filed claim petitions in MVC Nos.4750/2010 and 7434/2011 respectively.

5. The case put forth by the claimants before the Tribunal was that the Maruti Omni van was parked on the left side of the road due to mechanical defect at that point of time, the driver of the KSRTC bus came in a rash and negligent manner and dashed against the Maruti Omni



van, causing fatal injuries to driver and inmate of the van suffered severe injuries.

6. In response to the notice, Respondent No.1-KSRTC appeared and filed objections denying the case put forth by the claimants. Respondent No.1 - KSRTC in its statement clearly stated that as per the complaint and charge sheet, the driver of the Maruti Omni van in a haste to overtake a lorry going ahead dashed against the KSRTC bus coming from the opposite direction. Though the driver of the bus tried all his best to avoid the accident, but due to the rash and negligent driving of the driver of the Maruti Omni van, inevitably accident has taken place.

7. The Tribunal, after completion of pleadings framed issues and answered the issues against the petitioners concluding that, it is the driver of the Maruti Omni van, as per the police record, against whom the charge sheet has been filed was responsible for the accident. The Tribunal further held that there is no rash



and negligent element attributable against the driver of the KSRTC bus. Since the owner of the Maruti Omni van has not been made as a party, the Tribunal dismissed both the claim petitions.

8. Though the Tribunal assessed the compensation in respect of injury case, but dismissed the claim petition. However, the claim petition filed by the legal heirs of the driver of the Maruti Omni van has been dismissed in its entirety. It is this common judgment and award passed by the Tribunal is called in question by the claimants in both the claim petitions for enhancement of compensation assessed in injury case and for consideration of compensation in death claim.

9. Heard Sri.Subramani, learned counsel appearing for Sri.Satish R.Girji, for the appellants in both the appeals and Smt.H.R.Renuka, learned counsel appearing for respondent No.1 in MFA.No.4516/2017, Sri.K.Nagarajaiah, learned counsel for respondent No.3.



Respondent No.2 though served remained unrepresented and also Sri.Karthikeyan.B.S, learned counsel for respondent in MFA.No.4517/2017.

10. Sri.Subramani, with all vehemence submits that though the charge sheet is filed against the driver of the Maruti Omni van, but the spot sketch and the mahazar clearly shows that the driver of the KSRTC bus is responsible for the accident. This aspect of the matter is missed by the Tribunal while answering the issue on the rash and negligent driving framed against the driver of the KSRTC bus. Accordingly, he sought to modify the findings of the Tribunal and fasten the negligence on the driver of the KSRTC bus.

11. In contrast, Madam H.R.Renuka, with all vehemence submits that as per the police records, abated charge sheet has been filed against the deceased driver of the Maruti Omni Van. Even the FIR has been filed against the driver of the Maruti Omni van. In these circumstances,



in the teeth of police records and the spot sketch, it is the driver of the Maruti Omni van who swerved on the extreme right side of the road in a haste to over take a lorry and caused the accident and submits that the judgment and award does not call for any interference. So far as enhancement and grant of compensation is concerned, learned counsel submits that since there is no negligence on the part of the KSRTC bus, there cannot be any liability to pay compensation. Accordingly, she sought to dismiss the appeals.

12. Having heard the rival submissions, the points that would arise for our consideration are:

- (i) Whether the Tribunal is right in holding that the driver of the Maruti Omni van is solely responsible for the accident?*
- (ii) Whether the claimants in both the claim petitions have made out a case for enhancement and assessment of compensation?*



13. Our answer to both the points for consideration is ***Partly in Affirmative*** for the following:

REASONS

14. **POINT NO.1:** A perusal of spot sketch clearly shows that the Maruti Omni van was on the wrong side of the road, but the fact remains that the driver of the KSRTC bus has not taken any precaution to avoid the accident. On the principle of *res ipsa loquitur*, the Tribunal ought to have held that the driver of the KSRTC Bus who has got all last chance to avoid accident, if was a little circumspect, he could have avoided the accident.

15. Our view is supported by the Judgment of Apex Court in ***APSRTC AND ANOTHER V/s. K.HEMALATHA AND OTHERS*** reported in ***LAWS SC (2008) 356***, wherein at Paragraph No.7, it has been held that, it becomes relevant to ascertain who was driving the vehicle negligently and rashly and in case both were so driving who were more responsible for the accident and who of the two had the last opportunity to avoid the accident. In



these circumstances, we are of the opinion that if the liability of 30% is fastened on the driver of the KSRTC bus and 70% on the driver of the Maruti Omni van, in consideration of the spot sketch and resting on the principle of *res ipsa loquitur*, the same would meet ends of justice. Accordingly, we answer point No.1 ***partly in affirmative.***

16. So far as the quantum is concerned, in MFA.No.4516/2017, the Tribunal has dismissed the aforesaid claim petition in its entirety. However, considering the fact that the deceased was a driver, besides, even the police records shows that deceased was driving the vehicle and since the driving involves skilled labour, the income should have been taken a little higher than the income fixed by the Tribunal. Accordingly, a sum of Rs.7,000/- is considered towards income of the deceased, as he was survived by wife, minor child, mother and brother. Since there are more than two claimants are dependants, $\frac{1}{3}^{\text{rd}}$ is required to be deducted from the



monthly income towards the personal expenses and by adding 40% towards the future prospectus and with multiplier of '17'. The claimants are entitled for loss of dependency. So also, the claimants are entitled for loss of consortium, funeral expenses and loss of estate and 20% escalation for two terms of completed 3 years from 2017. Accordingly, the claimants in MFA No.4516/2017 are entitled for the following compensation:

Sl. No.	Heads	Compensation awarded by this Court In Rs.
1.	Loss of dependency (7000+40%x12x17x2/3)	13,32,800-00
2.	Loss of consortium (40,000x4)	1,60,000-00
3.	Funeral expenses and transportation charges	15,000-00
4.	Loss of estate	15,000-00
5.	20% escalation (for two terms of three completed years on conventional heads)	38,000-00
	TOTAL	15,60,800-00

17. Accordingly, claimants are entitled for compensation in a sum of Rs.15,60,800/- which shall carry interest at the rate of 6% per annum from the date of petition till realization. The respondent No.1-Corporation shall deposit 30% of the compensation amount within six



weeks from the date of receipt of copy of this order. The entire 30% of amount shall be released in favour of the appellants in the ratio of 40:40:15:5 on proper identification, however, so far as minor child is concerned, the entire 40% of the compensation shall be kept in any interest yielding FDR with any nationalized bank till he/she attains age of majority.

18. The claimant in MFA.No.4517/2017 is the injured. Though the Tribunal has assessed the income, but dismissed the claim petition on the point of negligence on the driver of the Maruti Omni van and owner of the vehicle was not a party. The Tribunal has considered the case of the injured person and awarded a total sum of Rs.6,20,000/- with interest at the rate of 6% per annum. Considering the injuries suffered i.e., fracture of right femur, fracture of left radial styloid and Parietal haemorrhage with subarchnoid haemorrhage. The compensation awarded on the same requires a little consideration, except under pain and suffering, attendant



nourishment and conveyance charges, medical expenses and future medical expenses. In view of the same, the claimant is entitled for re-assessed compensation as follows:

Sl. No.	Heads	Compensation awarded by the Tribunal In Rs.	By this Court In Rs.
1.	Loss of future income	2,45,000-00	3,06,000-00 (5,000x12x17x30%)
2.	Pain and sufferings	60,000-00	60,000-00
3.	Loss of amenities	30,000-00	50,000-00
4.	Loss of income during laid up period and rest period	16,000-00	20,000-00 (5,000 X 4)
5.	Attendant, nourishment and conveyance charges	30,000-00	30,000-00
6.	Medical expenses	2,14,000-00	2,14,000-00
7.	Future medical expenses	25,000-00	25,000-00
	TOTAL	6,20,000-00	7,05,000-00

19. Accordingly, claimant is entitled for respondent-determined compensation in a sum of Rs.7,05,000/- which shall carry interest at the rate of 6% per annum from the date of petition till realization.

20. In view of the above, we proceed to pass the following:



ORDER

- i) MFA.No.4516/2017 and MFA.No.4517/2017 are ***allowed in part.***
- ii) The judgment and award dated 21.02.2017 in MVC.Nos.4750/2010 & 7434/2011 passed by III Additional Senior Civil Judge & Motor Accident Claims Tribunal, Bengaluru (SCCH-18) are modified on the negligence stated supra.
- iii) The claimants in MFA.No.4516/2017 are entitled for compensation in a sum of Rs.15,60,800/- with interest at the rate of 6% per annum from the date of petition till realization.
- iv) The claimant-injured in MFA.No.4517/2017 is entitled for compensation of Rs.7,05,000/- with interest at the rate of 6% per annum from the date of petition till realization.



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- v) The respondent No.1-Corporation shall deposit 30% of the compensation amount in both the claim petitions within six weeks from the date of receipt of copy of this order. The entire 30% of amount shall be released in favour of the claimants on proper identification, except minor child as per the observation supra.

Pending interlocutory applications, if any, does not survive for consideration and the same is disposed of.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(T.M.NADAF)
JUDGE

RR
List No.: 1 Sl No.: 21