



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

MISCELLANEOUS FIRST APPEAL NO.102651 OF 2014 (MV)

BETWEEN:

KHALEEL AHAMMAD
S/O JAMALSAB
AGE: 42 YEARS,
OCC: AGRICULTURE AND VEGETABLE BUSINESS,
R/O. BHABUNAGAR, 16TH CROSS, DAVNAGERE.

...APPELLANT

(BY SRI GN NARASAMMANAVAR, ADVOCATE FOR
SRI LOKESH MALAVALLI, ADVOCATE)

AND:

THE DIVISIONAL CONTROLLER,
KSRTC DAVANAGERE DIVISION,
DIST: DAVANAGERE.

...RESPONDENT

(BY SRI IC PATIL, ADVOCATE)



THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT 1988, AGAINST JUDGMENT AND AWARD DATED 12.08.2014, PASSED IN MVC.NO.715/2012 ON THE FILE OF THE PRL. SENIOR CIVIL JUDGE & ADDL. MACT, RANEBENNUR, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION & ETC.

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



CORAM: THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 12.08.2014 passed by Principal Senior Civil Judge and Additional M.A.C.T., Ranebennur¹ in MVC no.715/2012, this appeal is filed.

2. Sri GN Narasammanavar, Advocate appearing for Sri Lokesh Malavalli, learned counsel for appellant submitted, appeal was by claimant for enhancement of compensation. It was submitted that at 01.30 p.m. on 18.07.2012 when Abdul Raseedsab and Khaleel Ahammad (appellant herein) were travelling in auto no.KA-17/A-1066 from Ranebennur towards Davangere, driver of KSRTC bus no.KA-17/F-1305 drove it in rash and negligent manner and dashed against auto causing accident. Abdul Raseedsab sustained grievous injuries and died on spot, while Khaleel Ahammad sustained grievous injuries and despite taking treatment at Government Hospital, Ranebennur and thereafter, at C.G. Hospital, Davangere, he did not recover fully and sustained loss of earning capacity. Dependents of

¹ For short, 'Tribunal'



deceased Abdul Raseedsab and injured Khaleel Ahammad filed separate claim petitions under Section 166 of Motor Vehicles Act, 1988, against KSRTC.

3. Both claim petitions were clubbed. On appearance, KSRTC opposed claim petitions on all counts. Based on pleadings, Tribunal framed issues and recorded evidence. Claimants in both along with doctor deposed as PW1 to PW3 and got marked documents at Exs.P1 to P60, while driver of bus was examined as RW1.

4. On consideration, Tribunal held accident occurred due to rash and negligent driving of bus by its driver and claimant was entitled for compensation of Rs.1,40,200/- with interest at 7% per annum. Dissatisfied with same, appeal was filed.

5. It was submitted that claimant was seeking enhancement on limited grounds. It was submitted that as on date of accident, claimant was 48 years old, earning Rs.20,000/- per month from agriculture and vegetable vending. Without justification, Tribunal considered lower monthly income of Rs.4,500/-. It was submitted though claimant sustained fracture



of 1st, 2nd and 4th to 8th ribs on right side i.e., seven fractures, Tribunal awarded only Rs.30,000/- towards pain and suffering. Even compensation awarded towards loss of income during laid-up period was required to be enhanced. It was submitted, PW3 assessed disability at 40% to limb and issued Ex.P56-disability certificate. Despite same, Tribunal awarded only Rs.10,000/- towards loss of amenities which requires to be scale up. On above grounds, sought for allowing appeal.

6. Sri IC Patil, Advocate opposed appeal.

7. Heard learned counsel, perused impugned judgment, award and record.

8. This appeal is by claimant for enhancement. Therefore, point for consideration is:

"Whether claimant is entitled for enhancement of compensation as sought for?"

9. Same is answered partly in affirmative for following reasons:

10. Though claimant stated that he was earning Rs.20,000/- per month from agriculture and vegetable vending,



same was not substantiated. Consequently, Tribunal would be justified in assessing it notionally. But, notional income for year 2012 was Rs.6,500/-. Therefore, same has to be considered. Tribunal applied multiplier of '13' and assessed disability at 12%. Consequently, re-assessed compensation towards loss of future loss of earning capacity would be **Rs.1,21,680/-** [i.e., Rs.6500 x 12% x 12 x 13].

11. Taking note of fact that claimant has sustained not less than seven fractures, award of Rs.30,000/- towards pain and suffering would be grossly inadequate and is enhanced to **Rs.70,000/-**. Tribunal has awarded **Rs.4,000/-** towards medical and other incidental expenses against bills produced, which appears just and proper and do not call for interference. However, Tribunal has awarded only Rs.12,000/- towards loss of income during laid-up period. In view of escalation of monthly income, it has to be reworked at **Rs.19,500/-**. When claimant sustained permanent physical disability, as per decision of Hon'ble Supreme Court in case of **Rajkumar v. Ajaykumar and Anr.²**, claimant would also be entitled for compensation towards

² 2011 (1) SCC 343



loss of amenities. Since assessment of earning capacity is considered at 12% only, compensation towards loss of amenities at Rs.10,000/- would be inadequate and enhanced to **Rs.30,000/-**. Thus, total compensation would be **Rs.2,45,180/-**.

12. Consequently, following:

ORDER

- (i) Appeal is ***allowed in part***. Judgment and award dated 12.08.2014 passed by Principal Senior Civil Judge and Additional M.A.C.T., Ranebennur in MVC no.715/2012, is modified.
- (ii) Claimant is held entitled for reassessed compensation of **Rs.2,45,180/-** as against Rs.1,40,200/-.
- (iii) Reassessed compensation shall carry interest at 7% per annum from date of claim petition till realisation.
- (iv) Respondent-KSRTC is directed to deposit compensation before Tribunal within eight (8) weeks.



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- (v) On deposit, Tribunal is directed to release
entire compensation in favour of claimant.

Sd/-
(RAVI V.HOSMANI)
JUDGE

SMM, CT:VP
LIST NO.: 1 SL NO.: 5