

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 09TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

MISCELLANEOUS FIRST APPEAL NO.103179 OF 2015

C/W.

MISCELLANEOUS FIRST APPEAL NO.104063 OF 2016,

MISCELLANEOUS FIRST APPEAL NO.104064 OF 2016

IN MFA NO.103179/2015

BETWEEN:

THE DIVISIONAL CONTROLLER
NEKRTC DIVISIONAL OFFICER,
BALLARI R/BY CLO, NEKRTC, CENTRAL OFFICE,
SARIGE SADHAN, KALBURGI.

...APPELLANT

(BY SRI S.C. BHUTI, ADVOCATE)

AND:

- 1 . SMT. G. ANNAPOORNA W/O LATE PRABHUDEV
AGE: 51 YEARS, OCC: SINECURE,
- 2 . G. GIRIJA D/O LATE PRABHUDEV
AGE: 20 YEARS, OCC: 1ST YEAR B.COM STUDENT,
BOTH ARE R/O: 8TH CROSS, M.J. NAGAR,
HOSAPETE, DIST: BALLARI.

...RESPONDENTS

(BY SRI Y. LAKSHMIKANT REDDY, ADVOCATE)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173 (1) OF THE MOTOR VEHICLES ACT, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED:25.07.2015, PASSED IN MVC.NO.884/2014 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND JMFC., HOSPET AND ETC.,.

IN MFA NO.104063/2016
BETWEEN:

1. G. ANNAPOORNA W/O LATE PRABHUDEV
AGED ABOUT: 52 YEARS, OCC: SINECURE,
2. G. GIRIJA D/O LATE PRABHUDEV
AGED ABOUT: 21 YEARS, HINDU
OCC: STUDENT, VIJAYANAGAR COLLEGE,
BOTH ARE R/O: 8TH CROSS,
M.J.NAGAR, HOSAPETE.

...APPELLANTS

(BY SRI Y. LAKSHMIKANT REDDY, ADVOCATE)

AND:

1. YELLAPPA NAYAK S/O LATE NINGAPPA
AGED ABOUT: 28 YEARS,
DRIVER OF KSRTC BUS BEARING
REG.NO.KA-35/F-13,
R/O: TURUMURI VILLAGE,
BAILHONGAL TALUK, DIST: BELAGAVI.
2. THE DIVISIONAL CONTROLLER, NEKRTC,
DIVISIONAL OFFICE, BALLARI.

...RESPONDENTS

(BY SRI S.C. BHUTI, ADVOCATE FOR R2;
NOTICE TO R1 DISPENSED WITH)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173 (1) OF THE MOTOR VEHICLES ACT, PRAYING TO MODIFY THE JUDGMENT & AWARD DATED:25.07.2015, PASSED IN MVC.NO.883/2014 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND JMFC., HOSPET, BY ENHANCING THE COMPENSATION TO APPELLANT AND PASS OTHER ORDER OR ORDERS AS THIS COURT DEEMS FIT IN THE CIRCUMSTANCES IN THE INTEREST OF JUSTICE AND EQUITY.

IN MFA NO.104064/2016
BETWEEN:

1. G. ANNAPOORNA W/O LATE PRABHUDEV

AGED ABOUT: 52 YEARS,
OCC: SINECURE,

2. G. GIRIJA D/O LATE PRABHUDEV
AGED ABOUT: 21 YEARS, HINDU
OCC: STUDENT, VIJAYANAGAR COLLEGE,
BOTH ARE R/O: 8TH CROSS,
M.J.NAGAR, HOSAPETE

...APPELLANTS

(BY SRI Y. LAKSHMIKANT REDDY, ADVOCATE)

AND:

1. YELLAPPA NAYAK S/O LATE NINGAPPA
AGED ABOUT: 28 YEARS,
DRIVER OF KSRTC BUS BEARING
REG.NO.KA-35/F-12,
R/O: TURUMURI VILLAGE,
BAILHONGAL TALUK, DIST: BELAGAVI.
- 2 . THE DIVISIONAL CONTROLLER NEKRTC
DIVISIONAL OFFICE, BALLARI.

...RESPONDENTS

(BY SRI S.C. BHUTI, ADVOCATE FOR R2;
NOTICE TO R1 DISPENSED WITH)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173 (1) OF THE MOTOR VEHICLES ACT, PRAYING TO MODIFY THE JUDGMENT & AWARD DATED:25.07.2015, PASSED IN MVC.NO.884/2014 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND JMFC., HOSPET, BY ENHANCING THE COMPENSATION TO APPELLANT AND PASS OTHER ORDER OR ORDERS AS THIS COURT DEEMS FIT IN THE CIRCUMSTANCES IN THE INTEREST OF JUSTICE AND EQUITY.

THESE APPEALS ARE COMING ON PRONOUNCEMENT AND THE SAME HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 17.03.2026, THIS DAY, DELIVERED THE FOLLOWING:

CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI)

The claimants in MVC Nos.883/2014 and 884/2014 have maintained the appeals in MFA Nos.104063/2016 and 104064/2016, praying to modify judgment and award dated 25.07.2015 passed by learned Principal Senior Civil Judge and JMFC and MACT-IV, Hospet (for short 'the Tribunal') and to enhance the compensation as prayed in the claim petitions.

2. Respondent No.2 in the above referred claim petitions namely the Divisional Controller, NEKRTC, Ballari (hereinafter referred as 'the Corporation') has directed the appeal in MFA No.103179/2015 praying to set aside the impugned judgment and award passed in MVC No.884/2014.

3. The claimants namely Smt. G.Annapoorna and her daughter namely Smt. G.Girija maintained the petitions in MVC Nos.883/2014 and 884/2014 under Section 166 of Motor Vehicles Act claiming compensation from the driver and the Corporation for the death of Sri G.Prabhudev and Kumari Netra G., respectively. The case of the claimants is that on 08.06.2014 at about 8.05 a.m., when Sri G.Prabhudev and his daughter Kumari Netra G., were going in a Honda Activa

bearing No.KA-35-V-1319, near Sri Kanavi Veerabhadreshwar Temple on NH-13, a KSRTC bus bearing No.KA-35-F-13 came at high speed and in rash and negligent manner and dashed against their vehicle, as a result both of them sustained fatal injuries and later on succumbed to the injuries sustained in the said incident.

4. On service of the notice, the driver of the bus and the Corporation appeared before the Tribunal through their counsel and contested the claim petitions by filing their written statement. Based on the pleadings, the Tribunal framed relevant issues, held enquiry in the matter and disposed of the claim petitions on merits of the case. The Tribunal, based on the materials available on record, held that the driver of KSRTC bus was solely responsible for the accident and accordingly, allowed the claim petitions in part holding that the claimants are entitled for compensation of ₹7,16,072/- and ₹11,51,600/- respectively together with interest at the rate of 9% per annum from the date of petition till its realization.

5. Being dissatisfied with the quantum of compensation awarded by the Tribunal, the claimants have preferred the appeals seeking enhancement of the

compensation in both the claim petitions. However, the Corporation has preferred the appeal only against impugned judgment and award passed in MVC No.884/2014.

6. Sri Y. Lakshmikanth Reddy, learned Counsel for Claimants vehemently submitted that the Tribunal has not considered future prospects of the deceased while determining compensation. He further submitted that the Tribunal has even failed to award just and reasonable compensation under conventional heads. He contended that the compensation awarded by the Tribunal in both the claim petitions is meager and inadequate. In view of the same, he prayed to allow the appeals and to award suitable compensation to the claimants.

7. Per contra, Sri S.C. Bhuti, learned Counsel for the Corporation vigorously submitted that the judgment and award passed in MVC No.884/2014 is opposed to facts and probabilities of the case. He submitted that the Tribunal failed to notice the documents produced at Ex.P9 and P12 being created documents, based on which the Tribunal wrongly took that deceased Kumari Netra G., was earning ₹10,200/- per month. He further submitted that even the multiplier adopted by the Tribunal is wrong and that the Tribunal has erred by not

deducting interim compensation paid by the Corporation. As such, he prayed to allow the appeal filed by the Corporation and to set aside the judgment and award passed in MVC No.884/2014.

8. The following points arise for the consideration of this Court:

- i) Whether the claimants have made out valid ground to seek enhancement of the compensation in both the claim petitions?
- ii) Whether the Tribunal is justified in awarding a total compensation of ₹11,51,600/- to the claimants in MVC No.884/2014?

Point Nos.(i) and (ii):

9. Both the claim petitions in question came to be filed based on same cause of action i.e., the accident occurred on 08.06.2014 and on the ground that the negligence attributable to the driver of the KSRTC bus. The Tribunal tried these petitions together and disposed of the same vide a common judgment. On appreciating the materials on record, the Tribunal held that the driver of KSRTC bus was solely responsible for the accident. Further, the judgment and award passed in MVC No.883/2013 has not been questioned either by the driver of the bus or its owner i.e., the Corporation. Though

the Corporation has directed an appeal against the judgment and award passed in MVC No.884/2014, they have maintained the said appeal only to question correctness of quantum of compensation determined in the said petition. Thereby, the parties to these appeals are not at dispute regarding the accident in question or actionable negligence on the part of the driver of KSRTC Bus for its occurrence.

10. The Tribunal awarded a sum of ₹7,16,072/- as compensation in MVC No.883/2014 under the following heads:

Sl.No.	Particulars	Amount (in ₹)
1.	For loss of dependency	5,76,072.00
2.	For loss of consortium	1,00,000.00
3.	For loss of love and affection	10,000.00
4.	For loss of estate	10,000.00
5.	For funeral expenses and transportation of dead body	20,000.00
	Total	7,16,072.00

11. The claimants herein have sought enhancement of the compensation mainly on the ground that the Tribunal has committed error in not considering the future prospects of the deceased namely Sri G.Prabhudev while determining the compensation. The claimants have contended that the deceased was aged 55 years at the time of the accident.

Admittedly, the deceased was working in TSP Company. He took voluntary retirement in the said company and thereafter started working in NECC Roadways Company. He was working in NECC Roadways Company for three years, prior to the date of accident. In spite of all these admitted facts, the claimants did not produce any relevant document before the Tribunal to prove the actual age of the deceased. In the absence of relevant document to show actual age of the deceased at the relevant point of time, the Tribunal relying on the entry in post mortem report concluded that the deceased was aged 60 years at the time of accident and applied multiplier of 9.

12. Further, the Tribunal relying on salary certificate produced at Ex.P11 and the evidence adduced through PW-4 held that the deceased was earning monthly income of ₹8,000/-, deducted 1/3rd of such income towards his personal expenses by following the decision in Sarla Verma's Case, reported in (2009) 6 SCC 121 and arrived at ₹5,76,072/- (i.e, ₹5334/- X 12 X 9) as compensation under the head of loss of dependency. This Court does not find any error committed by the Tribunal in arriving at this figure.

13. In Pranay Sethi's Case reported in (2017) 16 SCC 680, Hon'ble Apex Court has directed to consider the future prospects of the deceased for the purpose of determining compensation under the head of loss of dependency, if the deceased was below the age of 60 years. In the case on hand, the deceased was working in a company post his voluntary retirement that to for a period of 3 years and the claimants have withheld deceased's age proof document from the consideration of the Tribunal. On the other hand, the materials on record probalilise that the deceased was aged more than 60 years at the time of the accident. In view of the same, it is held that the Tribunal was justified in not considering future prospects of the deceased for determining the compensation under the head of loss of dependency.

14. The claimants herein are the wife and daughter of the deceased. The compensation awarded by the Tribunal under the conventional heads is on higher side and more than the amount stipulated in Pranay Sethi's Case, referred supra. As such, this Court does not find any valid reason to enhance the compensation awarded by the Tribunal in MVC No.883/2014.

15. The Tribunal awarded compensation of ₹11,51,600/- to the claimants in MVC No.884/2014 under the following heads:

Sl.No.	Particulars	Amount (in ₹)
1.	For loss of dependency	11,01,600.00
2.	For loss of love and affection	20,000.00
3.	For funeral expenses and transportation of dead body	20,000.00
4.	For loss of estate	10,000.00
	Total	11,51,600.00

16. In this case, deceased Kumari Netra G., was a bachelor. Based on entry in the post mortem report, the Tribunal took her age as 24 years and adopted multiplier of 18 as held in Sarla Verma's Case, referred supra. Further, the Tribunal relying on the salary certificate produced at Ex.P9, considered the earning of the deceased as ₹10,200/- per month and calculated loss of dependency as ₹11,01,600/- (i.e, ₹5,100/- X 12 X 18).

17. The Corporation has challenged the award passed in the case mainly on the ground that the Tribunal has erred by relying on Ex.P9, to determine the avocation and income of the deceased and failed to notice that the deceased herein was a under graduate. They contended that the Tribunal was wrong

in taking income of the deceased as ₹10,200/- per month based on Ex.P9, which is a created document. Per contra, the claimants have contended that the Tribunal ought to have taken the total income of the deceased as ₹15,200/- per month, who was earning a sum of ₹10,200/- by way of salary and ₹5,000/- by giving tuition.

18. It is the definite case of the claimants that the deceased was working as Assistant Teacher in K.S.P.L. School in Basaveshwara Badavane, Hospet and she was getting a salary of ₹10,200/- per month. It is their further case that the deceased was earning an additional sum of ₹5,000/- per month by giving tuition. However, the claimants have not adduced any documentary evidence before the Tribunal to substantiate the above contentions except producing a document styled as 'Experience Certificate' at Ex.P9 and examining a witness as PW-5.

19. In Ex.P9 it is stated that the deceased was working as Assistant Teacher in K.S.P.L. Higher Primary School since 15.6.2009 till 6.6.2014 and she was handling English and Social subjects for Primary School Section. As per Ex.P9 the deceased was drawing a salary of ₹10,200/-. Even PW-5 Sri Shiva

Prasad in his evidence contended that the deceased was working in their institution as a teacher and she was drawing a salary of ₹10,200/- per month since 2009.

20. As stated earlier, the claimants have not produced any other document before the Tribunal to show that the deceased was working as a teacher and getting income by way of salary since 2009. During her cross examination, PW-1 Smt. G.Annapurna, the mother of the deceased, categorically stated that the deceased had not continued her studies after completing II PUC in the year 2006 and that she had not done any teaching course. Whereas, PW-5 has claimed that at the time of her appointment, the deceased was pursuing the degree course and she had not completed her degree. Added to the above, if at all the deceased had worked as a teacher since 2009, she would have got regular increments or hike in salary. Neither the claimants nor PW-5 whispered anything in this regard. In the absence of corroborative materials, this Court holds that the Tribunal has erred in accepting the contentions of the claimants by relying on Ex.P9 and the testimony of PW-5.

21. Undisputedly, the accident in question occurred on 8.6.2014 and the deceased was aged about 24 years at that time. As per the chart prepared by KSLSA for the purpose of settlement of cases before the Lok Adalath, the suggested notional income for the year 2014 is ₹7,500/-. In the absence of any reliable evidence to prove actual income of the deceased, this Court opines that it would be proper to take the notional income of the deceased as ₹7,500/- per month, based on the said chart. Further, the deceased being a person aged below 40 years at the time of the accident, it is required to add 40% of the notional income towards her future prospects. Thus, the gross notional income of the deceased comes to ₹10,500/- (i.e, ₹7,500/- plus ₹3,000/-). As already pointed out, the deceased was a bachelor. As such, 50% of the income needs to be deducted towards her personal expenses. In that event, the loss of dependency works out to ₹11,34,000/- (i.e, ₹5,250/- X 12 X 18).

22. The claimants herein are the mother and sister of the deceased. As per the decision in **Magma General Insurance Company Vs. Nanu Ram and others** reported in **(2018) 18 SCC 130**, the claimants are entitled for

compensation of ₹40,000/- each under the head of filial consortium. Further, as per the decision in Pranay Sethi's Case referred supra, the claimants are entitled for a sum of ₹15,000/- each under the head of funeral expenses and loss of estate.

23. For the foregoing reasons, it is held that the claimants in MVC No.884/2014 are entitled for total compensation of ₹12,44,000/-, under the following heads:

Sl.No.	Particulars	Amount (in ₹)
1.	Loss of dependency	11,34,000.00
2.	Loss of Consortium	80,000.00
3.	Funeral expenses	15,000.00
4.	Loss of estate	15,000.00
	Total	12,44,000.00

24. The Corporation has also contended that the rate of interest awarded by the Tribunal is on higher side. The Tribunal has awarded interest on the compensation amount at the rate of 9% per annum from the date of petition till its realization. However, the Tribunal has not assigned any reason or justification to award interest at a rate higher than normal rate of interest. In the absence of any special reasons to award interest at a higher rate, this Court holds that it would be

proper to award interest at the rate of 6% per annum. Accordingly, Point Nos.(i) and (ii) are answered partly in the affirmative.

25. In the result, this Court proceeds to pass the following :

ORDER

- i) The appeals – MFA No.103179/2015 filed by the Corporation and MFA No.104064/2016 filed by the claimants are allowed in part.
- ii) The appeal – MFA No.104063/2016 filed by the claimants is dismissed.
- iii) The judgment and award dated 25.07.2015 passed in MVC No.883/2014 by learned Principal Senior Civil Judge and JMFC & MACT IV, Hospet is confirmed.
- iv) The judgment and award dated 25.07.2015 passed in MVC No.884/2014 by learned Principal Senior Civil Judge and JMFC & MACT IV, Hospet is modified.
- v) The claimants in MVC No.884/2014 are entitled for compensation of ₹12,44,000/- in place of ₹11,51,600/- awarded by the Tribunal together with interest thereon at the rate of 6 % per annum from the date of the petition till its deposit/realization.
- vi) The Corporation is directed to deposit entire compensation amount payable to the claimants excluding the amount already deposited in the case, within a period of sixty days from this day.

- vii) The claimants are entitled for their share in the compensation amount in terms of the order passed by the Tribunal.
- viii) The registry is directed to send back trial court record to concerned Tribunal forthwith.
- ix) Draw awards accordingly.

Sd/-
(B. MURALIDHARA PAI)
JUDGE

RKM, YAN
CT: CMU