



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 15TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MRS JUSTICE P SREE SUDHA

MISCL. FIRST APPEAL NO.200749 OF 2019 (MV-I)

C/W

MISCL. FIRST APPEAL NO.200877 OF 2022 (MV-I)

IN MFA NO.200749/2019:

BETWEEN:

THE GENERAL MANAGER,
CHOLAMANDALAM M.S. GENERAL
INSURANCE CO. LTD.,
BAGALKOT ROAD, VIJAYAPUR,
THROUGH AUTHORISED SIGNATORY.

...APPELLANT

Digitally signed
by SUMITRA
SHERIGAR

Location: HIGH
COURT OF
KARNATAKA

(BY SRI. SUBHASH MALLAPUR, ADVOCATE)

AND:

1. MANOHAR S/O SUBANNA RATHOD,
AGE: 50 YEARS, OCC: CONDUCTOR,
R/O JALANAGAR, VIJAYAPUR-586 101.
2. BIBIBATUL
W/O NUJAHEED HUSSAIN,
AGE: MAJOR,
OCC: OWNER OF TEMPO NO.KA-29/6171,
R/O DECCAN BANK CROSS,



BANGARMATH BLDG., SHAHAPET,
VIJAYAPUR-586 101.

3. THE DIVISIONAL CONTROLLER,
NEKRTC, VIJAYAPUR DIVN.,
VIJAYAPUR-586 101.

...RESPONDENTS

(BY SRI. SANGANAGOUDA V. BIRADAR, ADV. FOR R1;
SRI. SUDHIRSINGH R. VIJAPUR, ADV. FOR R3;
R2 - SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE
MOTOR VEHICLES ACT, PRAYING TO ALLOW THE APPEAL AND
CONSEQUENTLY SET ASIDE THE JUDGMENT AND AWARD
DATED 09.07.2018 PASSED BY THE MOTOR ACCIDENT CLAIMS
TRIBUNAL, VIJAYAPUR, IN MVC NO.2007/2013.

IN MFA NO.200877/2022:

BETWEEN:

MANOHAR S/O SUBANNA RATHOD,
AGE: 53 YEARS, OCC: CONDUCTOR,
R/O JALANAGAR, VIJAYAPUR-586 101.

...APPELLANT

(BY SRI. SANGANAGOUDA V. BIRADAR, ADVOCATE)

AND:

1. BIBIBATUL
W/O MUJAHEED HUSSAIN KALADAGI,
AGE: MAJOR,
OCC: OWNER OF GOODS TEMPO,
R/O DECCAN BANK CROSS,



BANGARMATH BUILDING, SHAHAPET,
VIJAYAPUR-586 101.

2. THE GENERAL MANAGER,
CHOLAMANDALAM M.S. GENERAL
INSURANCE CO. LTD.,
BAGALKOT ROAD,
VIJAYAPURA-586 101.
3. THE DIVISIONAL CONTROLLER,
NEKRTC, VIJAYAPUR DIVISION,
VIJAYAPUR-586 101.

...RESPONDENTS

(BY SRI. KOUJALAGI C.L., ADV. FOR R1;
SRI. SUBHASH MALLAPUR, ADV. FOR R2;
SRI. SUDHIRSINGH R. VIJAPUR, ADV. FOR R3)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO ENHANCE THE COMPENSATION AMOUNT PAYABLE TO THE APPELLANT BY SUITABLY MODIFYING THE JUDGMENT AND AWARD DATED 09.07.2018 PASSED BY THE COURT OF III ADDL. DISTRICT AND SESSIONS JUDGE AND MOTOR ACCIDENT CLAIMS TRIBUNAL NO.IV, VIJAYAPURA IN MVC NO.2007/2013, THE APPELLANT/CLAIMANT BEGS TO FILE THE APPEAL FOR ENHANCEMENT OF COMPENSATION AMOUNT AND CHALLENGING THE CONTRIBUTED NEGLIGENCE BETWEEN BUS AND TEMPO IN THE RATIO OF 60:40 ACCORDINGLY.

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

CORAM: HON'BLE MRS JUSTICE P SREE SUDHA



ORAL JUDGMENT

(PER: HON'BLE MRS JUSTICE P SREE SUDHA)

Heard the arguments of both sides.

2. These appeals are filed against the judgment and award dated 09.07.2018 passed by the III Additional District and Sessions Judge and Motor Accident Claims Tribunal No.IV, Vijayapura, in MVC No.2007 of 2013.

3. The facts of the case are that, on 09.03.2013, while the claimant was proceeding in KSRTC Bus bearing registration No.KA-28/F-1574 from Jamkhandi to Bijapur as a conductor, the driver of the bus driven it in a rash and negligent manner and lost control over the same and dashed to tempo bearing No.KA-29/6171 parked on the left side of the road, as a result of which, claimant sustained grievous injuries.

4. Therefore, he filed a claim petition before the Tribunal, claiming compensation of Rs.14,50,000/-. The Tribunal, considering the entire evidence on record,



calculated compensation of Rs.7,64,275/- and as there was collision between KSRTC Bus and Tempo bearing Reg. No.KA-29/6171 parked on the left side of the road, the liability is fixed both on the KSRTC Bus and the Tempo in the ratio of 60:40. But, as the claim against respondent No.3-Divisional Controller was given up, it has awarded a compensation of Rs.3,05,700/- with interest at 6% p.a. from the date of petition till realisation.

5. Aggrieved by the said judgment and award, the Insurance Company of the tempo truck has preferred MFA No.200749/2019, disputing quantum as well as liability, whereas the injured claimant, who is a conductor in KSRTC Bus has preferred MFA No.200877/2022, challenging the quantum of compensation as well as liability.

6. The appellant in MFA No.200749/2019 - Insurance Company mainly contended that, the tempo was parked on the left side of the road without any indicators and the accident occurred only due to the negligence of the driver of the KSRTC bus, but respondent



No.3 was exonerated from the liability. In Ex.P2, it was stated that the driver of the bus driven it in a rash and negligent manner and dashed the offending vehicle which was parked on the left side border of the road and charge sheet was filed against both the drivers and it shows that, he was a major contributor and respondent No.3 has admitted that the driver of the bus could not see the parked vehicle. The theory of *Res-ipso-loquitor* is to be applied. It is further contended that, the Tribunal erred in granting the medical expenses to the tune of Rs.6,89,275/- though Rs.5,07,768/- was already reimbursed and therefore, the claimants are entitled only for Rs.1,81,507/- towards medical expenses and thus, requested for modification of the impugned judgment.

7. Since the appellant in MFA No.200877/2022 - claimant is an employee of NEKRTC, he gave up claim against the Divisional Controller of their Department and made claim only against the owner and insurer of the tempo truck. He stated that, the contributory negligence



of the bus in the ratio of 60% is to be set aside. The tempo truck was parked on the middle of the road without indication of any lights. He was aged 45 years and sustained fracture injuries and the compensation under the head 'pain and suffering' is meagre. Since he spent Rs.10,00,000/- towards medical expenses, the compensation granted towards medical expenses is on the lower side. Further, no amount was granted towards loss of future earnings and loss of earning during laid up period. The compensation awarded by the Tribunal is inadequate. Therefore, requested for enhancement of compensation.

8. The manner of accident shows that, the claimant was travelling as conductor in KSRTC bus and the driver of the bus driven it in a rash and negligent manner and lost control over the bus and thereby dashed the tempo bearing Reg.No.KA-29/6171 parked on the left side of the road, but it was parked without indication of lights and signals.



9. Learned counsel for the appellant in MFA No.200749/2019 - insurer of the tempo truck argued that, the tempo was parked on the left side of the road and not on the middle of the road as stated by the claimant and the negligence is on the driver of the bus. As such, the contributory negligence is rightly assessed as 60:40 and it needs no interference. Moreover, the charge sheet is filed against drivers of both the vehicles.

10. Learned counsel for the appellant in MFA No.200877/2022 – claimant relied upon Section 15 of the Rules of the Road Regulations, 1989, which reads as follows:

"15. Parking of the vehicle.-(1) Every driver of a motor vehicle parking on any road shall park in such a way that it does not cause or is not likely to cause danger, obstruction or undue inconvenience to other road users and the manner of parking is indicated by any sign board or markings on the road side, he shall park his vehicle in such manner.



(2) A driver of a motor vehicle shall not park his vehicle:-

- (i) at or near a road crossing, a bend, top of a hill or a humpbacked bridge;*
- (ii) on a foot-path;*
- (iii) near a traffic light or pedestrian crossing;*
- (iv) in a main road or one carrying fast traffic;***
- (v) opposite another parked vehicle or as obstruction to other vehicle;*
- (vi) alongside another parked vehicle;*
- (vii) on roads or at places or roads where there is a continuous white line with or without a broken line;*
- (viii) near a bus stop, school or hospital entrance or blocking a traffic sign or entrance to a premises or a fire hydrant;*
- (ix) on the wrong side of the road;*
- (x) where parking is prohibited;*
- (xi) away from the edge of the footpath."*



He contended that, mere parking of the vehicle on the national highway itself is not permissible. As such, the entire negligence is on the stationed tempo which was parked without indication of lights.

11. He also relied upon the judgment of the Hon'ble Supreme Court in ***Civil Appeal No.10648 of 2024*** between ***Sushma*** and ***Nitin Ganapati Rangole & Ors.,*** dated 19.09.2024, in which it was held that, accident was occurred due to the sole negligence of the driver of the offending stationed truck, which was parked in the middle of the road. It is not the case of the respondents that, parking lights of the standing vehicle were on or there was any other indication on the backside of the vehicle standing on the road to enable the coming vehicle to see the standing truck.

12. Even in the present case, the tempo truck was stationed on the left side of the road, but no parking lights were switched on. The accident occurred at 7.45 p.m. As such, there is no possibility for the driver of the KSRTC



bus to notice the truck, which was parked on the left side of the road. As such, this Court finds that the entire negligence is on the tempo truck, which was stationed on the left side of the road without any indicators and the liability fixed on the KSRTC driver to an extent of 60% is to be set aside. No doubt, charge sheet was filed against both the drivers as there was collision of both the vehicles, but in view of the above discussion, this Court finds it reasonable to fix the entire liability on the driver of the stationed tempo.

13. Ex.P6 is the Wound Certificate, according to which, the claimant sustained the following injuries, which are grievous in nature:

- 1) Comminuted fracture proximal 1/3rd shaft
tibia fracture right site.
- 2) Segmental fracture fibula right side shaft.



14. Considering the nature of injuries sustained and the treatment undergone, this Court finds it reasonable to award a sum of Rs.55,000/- for pain and sufferings; Rs.50,000/- for loss of amenities and a sum of Rs.30,000/- for transportation, extra nourishment and attendant charges.

15. The Tribunal has awarded a sum of Rs.6,89,275/- for medical expenses. In this regard, learned counsel for respondent-Insurance Company contended that as per Ex.R1 – Medical Reimbursement Letter a sum of Rs.5,07,768/- was reimbursed to the claimant. The claimant admits the same in his cross-examination. Therefore, this Court finds it reasonable to grant only Rs.1,81,507/- towards medical expenses.

16. The compensation awarded by the Tribunal is modified as under:



Sl. No.	Heads	Award by the Tribunal	Award by this Court
1	Injury, pain and suffering	Rs.50,000/-	Rs.55,000/-
2	Medical Expenses	Rs.6,89,275/-	Rs.1,81,507/-
3	Transportation, extra nourishment and attendant charges	Rs.20,000/-	Rs.30,000/-
4	Loss of amenities	Rs.5,000/-	Rs.50,000/-
Total		Rs.7,64,275/-	Rs.3,16,507/-
There will be reduction of Rs.4,47,768/-			

17. In the result, the following order is passed:

(i) Both the appeals are ***allowed in part.***

(ii) The claimant is entitled for total compensation of Rs.3,16,507/- with interest at 6% per annum from the date of petition till the date of realization.



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MFA No. 200749 of 2019
C/W MFA No. 200877 of 2022

(iii) The Insurance Company is directed to deposit the aforesaid compensation amount along with interest within one month from the date of this judgment.

(iv) On such deposit, the claimant is permitted to withdraw the entire amount along with interest accrued on it.

sd/-
(P. SREE SUDHA)
JUDGE

LG, SBS
List No.: 1 Sl No.: 9