# IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE 23<sup>RD</sup> DAY OF AUGUST, 2025

#### **BEFORE**

# THE HON'BLE MRS. JUSTICE P SREE SUDHA MISCELLANEOUS FIRST APPEAL NO.1021/2019(MV-D) C/W

# MISCELLANEOUS FIRST APPEAL NO.7193/2018(MV-D)

IN MFA.NO.1021/2019:

#### **BETWEEN:**

- SMT. SAAKE SUVARNA
   SUVARNA .S,
   W/O LATE. RAMANJANEYALU .C,
   AGED ABOUT 23 YEARS,
- 2. BABY YAMINI .C,
  D/O LATE RAMANJANEYALU .C,
  AGED ABOUT 3 YEARS,
  SINCE MINOR
  REPRESENTED BY HER MOTHER AND
  NATURAL GUARDIAN,
  SMT. SAAKE SUVARNA @ SUVARNA .S,
  APPELLANT NO.1
- SRI. C. ADINARAYANA,
   S/O BALA NARAYANA,
   AGED ABOUT 53 YEARS,
- SMT. CHINNASANTI YELLAMMA, W/O C. ADINARAYANA, AGED ABOUT 47 YEARS,
- ESWARAIAH .C,
   W/O C. ADINARAYANA,
   AGED ABOUT 23 YEARS,

ALL THE RESPONDENTS ARE PERMANENT RESIDENT OF

PEDDAKOTLA VILALGE, TADEMARI, DIS: ANANTHAPURAM, STATE ANDHRA PRADESH-515 631,

AND ALSO RESIDING AT NO.2, S. PURA MAIN ROAD, UTTARAHALLI, BENGALURU-560 061,

PRESENTLY RESIDING AT NO.47, SRASAMMA NILAYA, 2<sup>ND</sup> MAIN, 2<sup>ND</sup> CROSS, J.J.R. NAGARA, V.S. GARDEN, BENGALURU-560 026.

...APPELLANTS

(BY SRI. GURUDEV PRASAD K.T., ADVOCATE)

# **AND:**

THE MANAGING DIRECTOR, BMTC CENTRAL OFFICE, SIDDAIAH ROAD, SHANTHINAGAR, BENGALURU-560 027, REPRESENTED BY ITS CHIEF LAW OFFICER.

...RESPONDENT

(BY SRI. F.S. DABALI, ADVOCATE)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:31.05.2018 PASSED IN MVC NO.4989/2017 ON THE FILE OF THE XXII ADDITIONAL SMALL CAUSES JUDGE AND MEMBER MACT, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

## IN MFA.NO.7193/2018:

#### **BETWEEN:**

THE MANAGING DIRECTOR, BMTC, CENTRAL OFFICE, SIDDAIAH ROAD,

SHANTHINAGAR, BENGALURU-560 027, REPRESENTED BY ITS CHIEF LAW OFFICER.

...APPELLANT

(BY SRI. F.S. DABALI, ADVOCATE)

#### AND:

- SMT. SAAKE SUVARNA
   SUVARNA .S,
   W/O LATE. RAMANJANEYALU .C,
   AGED ABOUT 22 YEARS,
- 2. BABY YAMINI .C,
  D/O LATE RAMANJANEYALU .C,
  AGED ABOUT 1 YEAR 4 MONTHS,
  SINCE MINOR
  REPRESENTED BY HER MOTHER AND
  NATURAL GUARDIAN,
  SMT. SAAKE SUVARNA @ SUVARNA .S,
  RESPONDENT NO.1
- SRI. C. ADINARAYANA,
   S/O BALA NARAYANA,
   AGED ABOUT 52 YEARS,
- 4. SMT. CHINNASANTI YELLAMMA, W/O C. ADINARAYANA, AGED ABOUT 46 YEARS,
- 5. ESWARAIAH .C, W/O C. ADINARAYANA, AGED ABOUT 22 YEARS,

ALL THE RESPONDENTS ARE
PERMANENT RESIDENT OF
PEDDAKOTLA VILALGE,
TADEMARI, DIS: ANANTHAPURAM,
STATE ANDHRA PRADESH-515 631,

AND ALSO RESIDING AT NO.2,

S. PURA MAIN ROAD, UTTARAHALLI, BENGALURU-560 061,

PRESENTLY RESIDING AT NO.47, SRASAMMA NILAYA, 2<sup>ND</sup> MAIN, 2<sup>ND</sup> CROSS, J.J.R. NAGARA, V.S. GARDEN, BENGALURU-560 026.

...RESPONDENTS

(BY SRI. GURUDEV PRASAD K.T., ADVOCATE FOR R1 TO R5)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED: 31.05.2018 PASSED IN MVC NO.4989/2017 ON THE FILE OF THE XXII ADDITIONAL SMALL CAUSES JUDGE AND MEMBER MACT, BENGALURU, AWARDING COMPENSATION OF RS.18,73,200/- WITH INTEREST AT 8% P.A. FROM THE DATE OF PETITION TILL DEPOSIT.

THESE APPEALS HAVING BEEN HEARD AND RESERVED ON 20.08.2025 COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **P SREE SUDHA J.,** DELIVERED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

## **CAV JUDGMENT**

M.F.A. No.1021/2019 is filed by the claimants against the judgment and award dated 31.05.2018 passed by the XXII Additional Small Causes Judge and Member, MACT, Bengaluru in MVC No.4989/2017. M.F.A. No.7193/2018 is filed by the Bangalore Metropolitan Transport Corporation (BMTC) challenging the aforesaid judgment and award passed by the Tribunal.

- 2. The facts of the case is that on 11.08.2017 at about 7.45 a.m., one Ramanjaneyalu (deceased), while he was crossing J.C. Road, near Ravindra Kalakshetra, Bengaluru, a BMTC bus bearing registration No.KA-01-F-4355 driven by its driver, at high speed, in rash and negligent manner, dashed against the deceased. Due to the said accident, the deceased died on the spot. His wife, his minor daughter, his parents and his brother filed a claim application claiming compensation of Rs.40,00,000/-. The Tribunal considering the entire evidence on record, granted Rs.18,73,200/- with interest at the rate of 8% per annum from the date of petition till the date of realization.
- 3. Aggrieved by the said judgment, the claimants have preferred M.F.A. No.1021/2019 mainly contending that the deceased was aged about 27 years at the time of accident and he was working as House Keeper at White Glove Properties and Estates Private Limited, Bengaluru, earning the gross salary of Rs.11,690/- per month. The claimants examined P.W.2 and produced pay slip (Ex.P.15) and the Tribunal had to deduct PF

and professional tax, but wrongly taken the monthly income of the deceased as Rs.9,471/-. Therefore, requested for enhancement in the compensation. The claimants have also requested enhancement in the rate of interest at 8% per annum to 12% per annum.

4. M.F.A. No.7193/2018 is filed by the BMTC against the same judgment in which they disputed the negligence on the part of the driver of the bus. It was stated that the deceased Ramanjaneyalu was crossing the road, where there was no zebra crossing from west to east direction, and dashed the motorcycle which was moving by the side of the road and fell down. Thus, there is negligence on the part of the deceased and not on the part of the driver of the bus. The brother of the deceased gave the complaint and he was not an eyewitness to It is further contended that the rider of the the incident. motorcycle is the best person to narrate the incident, but he was not examined. Ex.P.6-IMV report shows scratch marks found on the front right side bumper, right side rear body of the bus and scratch marks on the front right side headlight dome cover, and front right side body of the motorcycle

damaged. There was no major damage to the front bumper of the bus and therefore, it shows that there was no negligence on the part of the driver of the bus. Under Ex.P.15-pay slip, Rs.685/- shows for conveyance allowance, Rs.1700/- for washing allowance and thus, an amount of Rs.7,799/- per month is to be taken instead of Rs.9,471/- per month and the rate of interest at 8% per annum is also to be reduced. It is further contended that the deceased joined service just 1 month 19 days prior to the date of accident and he was on probation. Therefore, he cannot be considered as a permanent employee and requested for reduction in the compensation.

- 5. Heard the arguments of both sides.
- 6. The claimants filed the copy of FIR, complaint, charge sheet, sketch, spot mahazer, IMV report, post mortem report and inquest report as per Exs.P1 to P8. The complaint was given by the brother of the deceased. It is argued that the brother of the deceased is not an eye witness to the occurrence. However, the charge sheet is filed against the driver of the bus after conducting investigation. Respondent-BMTC examined R.W.1-driver of the bus, who has stated that there was no negligence on his part, but he has not given any

complaint to the depot manager immediately after the accident and the charge sheet was not challenged by the BMTC.

- 7. Learned counsel for the BMTC has mainly relied upon the IMV report, in which no damage was caused to the front bumper of the bus. Learned counsel for the BMTC contended that owner of the scooter is the proper person and he was not examined by the petitioner-claimants as they disputed the liability and they have also not taken any steps to examine the said rider of the motorcycle. Considering the prima facie evidence before the Tribunal, it was held that there was negligence on the part of the driver of the bus and the BMTC was held liable to pay the compensation. Therefore, this Court finds no reason to interfere with the said finding. Accordingly, it is held that the BMTC is liable to pay the compensation.
- 8. The deceased met with an accident on 11.08.2017. As per the appointment order, the deceased was getting a basic wage of Rs.7,621/- and with other allowances. The pay slips for the month of June, July and August, 2017 were filed. As per the pay slip for the month of July 2017, the deceased was getting a salary of Rs.11,690/-. After deducting PF, ESI and

loan amount, he was getting net pay of Rs.9,471/- per month. The petitioners-claimants contended that only PF and professional tax have to be deducted from the gross salary, but in the pay slip, professional tax is not shown. After deducting the provident fund of Rs.915/-, the net income comes to Rs.10,775/- (11,690-915).

9. The Hon'ble Apex Court in the dictum of **National** Insurance Company Limited Vs. Pranay Sethi<sup>1</sup>, held that the future prospects of income of the deceased in respect of permanent job, shall also be included in determination of the compensation. Thus, considering the age of the deceased, 40% of the income has to be added towards future prospects. Thus, Rs.15,085/the amount would become per month (10,775+4310 ). As per the guidelines of the Hon'ble Apex Court in dictum of **Sarla Verma Vs. Delhi Transport Corporation**<sup>2</sup>, 1/4<sup>th</sup> of his income has to be deducted. Thus, the income of the deceased after deducting personal expenses comes to Rs.11,314/- per month (15,085-3771). The deceased

1 (2017) 16 SCC 680

<sup>&</sup>lt;sup>2</sup> (2009) 6 SCC 121

was aged 27 years at the time of accident. Therefore, the multiplier would have taken is 17. Accordingly, the loss of dependency comes to Rs.23,08,056/-  $(11,314 \times 12 \times 17)$ .

10. Further, the Hon'ble Supreme Court, by reiterating the comprehensive interpretation of 'consortium' given in the authority of **Magma General Insurance Company Limited** vs. Nanu Ram Alias Chuhru Ram & others<sup>3</sup>, and in the authority between **United India Insurance Company** Limited vs. Satinder Kaur @ Satwinder Kaur and others<sup>4</sup>, fortified that the amounts for loss of consortium shall be awarded to the children who lose the care and protection of their parents as 'parental consortium' and to the parents as, 'filial consortium' for the loss of their grown-up children, to compensate their agony, love and affection, care and companionship of deceased children. Accordingly, the wife of the deceased is entitled for Rs.40,000/- towards loss of consortium and his minor daughter, aged 4 months at the time of filing the petition, is entitled for Rs.40,000/- for parental consortium and petitioner Nos.3 and 4-parents of the deceased,

<sup>&</sup>lt;sup>3</sup> (2018) 18 SCC 130

<sup>4 (2020) 9</sup> SCC 644

each of them, are entitled for the amount of Rs.40,000/towards filial consortium. The third petitioner-claimant, being
the brother of the deceased, is not dependent on the deceased
and he is dependent on his father. Therefore, he is not entitled
for any compensation.

- 11. The claimants are also entitled for Rs.15,000/towards loss of estate and Rs.15,000/- towards funeral
  expenses. Rate of interest is also modified as 6% instead of
  8% per annum.
- 12. The award of compensation passed by the Tribunal is modified as under:

Heads	Amount in Rs.
1. Loss of Dependency	23,08,056/-
2. Loss of Estate	15,000/-
3. Loss of Consortium (Rs.40,000X4)	1,60,000/-
4. Towards Funeral Expenses	15,000/-
Total	24,98,056/-

13. In all, the claimants are entitled for the compensation of Rs.24,98,056/- with interest at 6% per annum

as against the compensation of Rs.18,73,200/- awarded by the Tribunal.

- 14. In the result, the following order is passed:
- (i) Both appeals are allowed in part.
- (ii) The Claimants are entitled for the total compensation of Rs.24,98,056/- with interest at 6% p.a. from the date of petition till the date of realization.
- (iii) Out of the aforesaid compensation, claimants No.3 and 4 (parents of deceased) are entitled for Rs.2,50,000/-each and they are permitted to withdraw the entire amount along with interest.
- (iv) Out of the balance amount, Rs.12 lakhs is to be kept in F.D. in any nationalised bank in the name of claimant No.2 (minor child of the deceased), till she attains the age of majority. Claimant No.1-wife of the deceased is also permitted to withdraw interest once in 3 months to meet the expenses of the minor child.
- (v) Claimant No.1-wife of the deceased is permitted to withdraw the balance amount along with interest.

- (vi) The appellant-BMTC is directed to deposit the aforesaid compensation amount within one month from the date of receipt of copy of this order.
- (vii) The statutory deposit of Rs.25,000/- is directed to be transferred to the Tribunal.

SD/-(P SREE SUDHA) JUDGE

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