

Prabhavathi vs The Managing Director Bangalore ... on 28 February, 2025

Author: Sanjay Karol

Bench: Prashant Kumar Mishra, Sanjay Karol

2025 INSC 293

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 3465-3466 OF 2025
(Arising out of SLP(C)Nos.21450-21451/2023)

PRABHAVATHI & ORS.

... APPELLANT(S)

VERSUS

THE MANAGING DIRECTOR,
BANGALORE METROPOLITAN,
TRANSPORT CORPORATION ... RESPONDENT(S)

ORDER

Time taken for Time taken for Time taken for disposal of the disposal of the disposal of the claim petition by appeal by the High appeal in this MACT Court Court 1 year 2 months 2 years 10 months 1 year 11 months Leave Granted

2. The present appeals are directed against the Judgment and Order dated 1st October 2020, passed in MFA No.2162 of 2018 C/W MFA No.4016 of 2018 by the High Court of Kar- nataka at Bengaluru, which in turn, was preferred against the judgment and order dated 12th December 2017 in M.V.C No. 3858/2016 passed by the IX Additional Small Causes and Addl. MACT, Bangalore (SCCH-7).

3. The brief facts giving rise to these appeals are that on 6th June 2016 the deceased, namely, Boobalan, aged 38 years, was travelling on his motorcycle from Krupanidhi Junction towards Madivala. The driver of the BMTC Bus (offending vehicle) bearing registration No. KA-01/F-9555 collided with the de- ceased, driving his vehicle in a rash and negligent manner, re- sulting in his death on the spot due to the grievous injuries sus- tained.

4. The Appellants (dependents of the deceased) filed a claim petition before the Tribunal seeking compensation of Rs.3,00,00,000/-, submitting therein that the deceased was the only earning member of the family, working as an Executive in the Housekeeping Department at Hotel Royal Orchid, Old Air- port Road, Bengaluru; and earning upto Rs.70,000/- per month.

5. The Tribunal, by its Order dated 12th December 2017, after considering the last drawn salary of the deceased as Rs.62,725/- per month, awarded the Appellants an amount of Rs.75,97,060/- along with interest @ 9% per annum and held that the accident occurred due to rash and negligent act of the driver of the BMTC Bus.

6. Being aggrieved with the amount of compensation awarded, both parties filed an appeal before the High Court. The appellant challenged the same on the ground that the Tribunal incorrectly determined the monthly income of the deceased as Rs.62,725/- per month, whereas the proven income as per the bank statement (Ex. P.21) should be assessed at Rs.70,000/- per month. On the other hand, the respondent challenged the assessment on the ground that there was no negligence on the part of the driver of the bus; instead of considering the notional income wrongly considered the income to the tune of Rs.62,725/- as the deceased was not a permanent employee and the interest @ 9% was excessive.

7. The High Court, vide the impugned order dated 1st October 2020, allowed the appeal and determined the contributory negligence at 75% on the driver of the bus and 25% on the deceased by relying upon the statements and documentary evidence on record and came to the conclusion that the accident occurred due to the rash and negligent driving of both the deceased and the driver of the offending vehicle as both were driving at high speed and further assessed the monthly income of the deceased as Rs.50,000/- per month and awarded an enhanced amount of Rs.77,50,000/- @ 6% interest per annum.

8. Yet dissatisfied, the claimant-appellant is now before us. The significant point raised by the appellant is that the High Court wrongly assessed contributory negligence of the deceased to the extent of 25%.

9. We have heard the learned counsel for the parties.

10. We are unable to agree with the view taken by the High Court on the 25% contributory negligence of the deceased and 75% upon the driver of the bus. We find ourselves to agree with the view taken by the Tribunal on this issue. The Tribunal rightly, after considering the evidence on record and on perusal of the Ex. P3 Spot Mahazar, came to the conclusion that there wasn't any sufficient evidence on record, indicating that the ac- cident occurred due to negligent driving on the part of the de- ceased, and after considering the oral evidence of P.W.1, held the cause of the accident to be rash and negligent on the part only of the offending vehicle.

11. Thus, in our considered view, the contributory negligence taken by the High Court at 25% of the deceased is erroneous. We advert to the principles laid down in Jiju Kuruvila v. Kun- jamma Mohan¹, where it was held that in the absence of any direct or corroborative evidence on record, it

cannot be assumed that the accident occurred due to the rash and negligent driving of both the vehicles. This exposition came to be followed in *Kumari Kiran v. Sajjan Singh and Ors.* 2. In the present case, therefore, on an allegation simpliciter, it cannot be presumed 1 (2013) 9 SCC 166 2 (2015) 1 SCC 339 that the accident occurred due to rash and negligent driving of both vehicles, for having driven at high speed.

12. Another point to be considered was that the claimants- appellants approached the High Court seeking an enhancement of compensation awarded by the Tribunal, stating therein that the deceased was earning Rs.70,000/- per month working as an Executive Housekeeper at Hotel Royal Orchid, whereas the High Court assessed the income as Rs.50,000/- per month.

13. It is the settled law that under the Motor Vehicle Act, 1988 it is established that in compensation cases, the strict rules of evidence used in criminal trials do not apply. Instead, the standard of proof is based on the preponderance of probability. This Court in *Sunita v. Rajasthan SRTC*³ observed that:

“22. It is thus well settled that in motor accident claim cases, once the foundational fact, namely, the actual occurrence of the accident, has been established, then the Tribunal's role would be to calculate the quantum of just compensation if the accident had taken place by reason of negligence of the driver of a motor vehicle and, while doing so, the Tribunal would not be strictly bound by the pleadings of the parties. Notably, while deciding cases arising out of motor vehicle accidents, the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases.” 3 (2020) 13 SCC 468 The exposition came to be reiterated in *Rajwati alias Ra-*

jjjo & Ors. v. United India Insurance Company Ltd. & Ors. 4, wherein it was observed that :

“20. It is well settled that Motor Vehicles Act, 1988 is a beneficial piece of legislation and as such, while dealing with compensation cases, once the actual occurrence of the accident has been established, the Tribunal's role would be to award just and fair compensation. As held by this Court in *Sunita (Supra)* and *Kusum Lata (Supra)*, strict rules of evidence as applicable in a criminal trial, are not applicable in motor accident compensation cases, i.e., to say, “the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases”.

14. In our considered view, the High Court was not justified in assessing the monthly income of the deceased at Rs.50,000/-, as this amount is relatively low, particularly in the background of the fact that the accident occurred on 6th June, 2016 and the Tribunal has evidently recorded that the last drawn salary of the deceased as per Pay Slip (Ex.P.16) to be Rs.62,725/- per month. Therefore, we affirm the findings of the Tribunal assessing the income of the deceased to be Rs.62,725/- per month. 4 2022 SCC OnLine SC 1699

15. As a result of the discussion above, the compensation now payable to the claimant-appellant is recalculated as follows:

**CALCULATION OF COMPENSATION S.No. Compensation Amount In Accordance
Heads Awarded with:**

1. Monthly Rs.62,725/-

Income		National Insurance Co. Ltd. v. Pranay Sethi (2017) 16 SCC
2. Yearly Income	Rs.7,52,700/-	
3. Future Prospects being 38)	7,52,700 + 3,01,080 = Rs.10,53,780/-	Para 42, 52 &
4. Deduction (1/4)	7,52,700 – 2,63,445 = Rs.7,90,335/-	
5. Multiplier (13)	7,90,335 X 15 = Rs.1,18,55,025/-	
6. Loss of Estate	Rs.18,150/-	
7. Loss of Funeral Expenses	Rs.18,150/-	
8. Loss of Consortium	48,400 X 4 = Rs.1,93,600/-	

Total	Rs. 1,20,84,925/-
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Thus, the difference in compensation is as under :

MACT	High Court	This Court
Rs. 75,97,060/-	Rs. 77,50,000/-	Rs. 1,20,84,925/-

16. The Civil Appeals are allowed in the aforesaid terms. The impugned Award dated 12th December, 2017 in M.V.C.No. 3858/2016 passed by IX Additional Small Causes and Addl.

MACT, Bangalore (SCCH-7), as modified by the High Court vide the impugned order dated 1st October, 2020, passed in MFA No.2162 of 2018 C/W MFA No.4016 of 2018, stands modified accordingly. Interest is to be paid as awarded by the Tribunal.

Pending application(s), if any, shall stand disposed of.

.....J. (SANJAY KAROL)J. (PRASHANT KUMAR
MISHRA) New Delhi;

February 28, 2025.