

**2025 LiveLaw (SC) 266**

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**SANJAY KAROL; J., PRASHANT KUMAR MISHRA; J.**

February 28, 2025

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

**PRABHAVATHI & ORS.**

*versus*

**THE MANAGING DIRECTOR, BANGALORE METROPOLITAN, TRANSPORT CORPORATION**

**Motor Vehicles Act, 1988 - Assessment of contributory negligence in a motor accident claim - Contributory negligence cannot be presumed on mere allegations of high-speed driving without direct or corroborative evidence. Contributory negligence must be established through direct or corroborative evidence. Tribunal's assessment of negligence, based on evidence and spot inspection, should be upheld unless demonstrably erroneous. (Relied on: Jiju Kuruvila v. Kunjujamma Mohan, (2013) 9 SCC 166, Para 10 & 11)**

**Motor Vehicles Act, 1988 - Assessment of Income - Income assessment in compensation cases should consider proven income as per payslips and bank statements, and not be arbitrarily reduced. The High Court had reduced the deceased's monthly income from Rs. 62,725/- (as determined by the Tribunal) to Rs. 50,000/-. The Supreme Court restored the Tribunal's assessment, holding that the deceased's last drawn salary of Rs. 62,725/- (as per pay slip) was the correct basis for calculating compensation. (Para 14)**

**Motor Vehicles Act, 1988 - Principles of Evidence - Standard of proof in motor accident claim cases - In motor accident claims, the standard of proof is based on the preponderance of probability, not the strict standard of proof beyond reasonable doubt used in criminal trials. (Relied on: Sunita v. Rajasthan SRTC, (2020) 13 SCC 468, Para 13)**

**Motor Vehicles Act, 1988 - Determination of just compensation - The claimants (dependents of the deceased) sought ₹3,00,00,000 as compensation before the Motor Accidents Claims Tribunal (MACT). The Tribunal awarded ₹75,97,060 with 9% interest per annum, based on a monthly income of ₹62,725. The High Court modified the Tribunal's findings, attributing 25% contributory negligence to the deceased and reducing the assessed income to ₹50,000 per month, awarding ₹77,50,000 at 6% interest per annum. The claimants challenged the High Court's assessment of contributory negligence and reduction of income. The Supreme Court recalculated the compensation, awarding a total of Rs. 1,20,84,925/- to the appellants (claimants). This included future prospects (40% of income), deductions (1/4th for personal expenses), and application of a multiplier of 15 (based on the deceased's age of 38 years). The Tribunal's award of 9% interest per annum was upheld. The appeals were allowed, and the compensation was enhanced from Rs. 77,50,000/- (as awarded by the High Court) to Rs. 1,20,84,925/-. The impugned judgments of the High Court and Tribunal were modified accordingly. (Para 15 & 16)**

[Arising out of impugned final judgment and order dated 01-10-2020 in MFA No. 2162/2018 01-10-2020 in MFA No. 4016/2018 passed by the High Court of Karnataka at Bengaluru]

*For Petitioner(s): Mr. C.B.Gururaj, Adv. Mr. Prakash Ranjan Nayak, AOR Mr. Animesh Dubey, Adv. Mr. Apoorv Nautiyal, Adv. Mr. K.P. Singh, Adv. Mr. C.B. Tiwari, Adv.*

*For Respondent(s): Mr. Shanti Prakash, AOR Hon'ble Mr. Justice Sanjay Karol has pronounced the order of a Bench comprising His Lordship and Hon'ble Mr. Justice Prashant Kumar Mishra.*

## **ORDER**

Time taken for disposal of the claim petition by MACT	Time taken for disposal of the appeal by the High Court	Time taken for disposal of the appeal in this 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 1<sup>st</sup> October 2020, passed in MFA No.2162 of 2018 C/W MFA No.4016 of 2018 by the High Court of Karnataka at Bengaluru, which in turn, was preferred against the judgment and order dated 12<sup>th</sup> 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 6<sup>th</sup> 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 deceased, driving his vehicle in a rash and negligent manner, resulting in his death on the spot due to the grievous injuries sustained.

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 Airport Road, Bengaluru; and earning upto Rs.70,000/- per month.

5. The Tribunal, by its Order dated 12<sup>th</sup> 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 1<sup>st</sup> 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 accident occurred due to negligent driving on the part of the deceased, 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. Kunjamma Mohan**<sup>1</sup>, 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.**<sup>2</sup>. In the present case, therefore, on an allegation simpliciter, it cannot be presumed 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**<sup>3</sup> 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."

The exposition came to be reiterated in **Rajwati alias Rajjo & Ors. v. United India Insurance Company Ltd. & Ors.**<sup>4</sup>, 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

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<sup>1</sup> (2013) 9 SCC 166

<sup>2</sup> (2015) 1 SCC 339

<sup>3</sup> (2020) 13 SCC 468

<sup>4</sup> 2022 SCC OnLine SC 1699

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 6<sup>th</sup> 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.

**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 Heads	Amount Awarded	In Accordance with:
1.	Monthly Income	Rs.62,725/-	National Insurance Co. Ltd. v. Pranay Sethi (2017) 16 SCC 680 Para 42, 52 & 59
2.	Yearly Income	Rs.7,52,700/-	
3.	Future Prospects (40%) (Age being 38)	7,52,700 + 3,01,080 = Rs.10,53,780/-	
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/-	

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 12<sup>th</sup> 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 1<sup>st</sup> 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.