

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

DATED THIS THE 31<sup>ST</sup> DAY OF OCTOBER, 2019

BEFORE

THE HON'BLE MR. JUSTICE N.K.SUDHINDRARAO

M.F.A.No.3243/2019

**BETWEEN:**

THE MANAGING DIRECTOR  
BMTc, CENTRAL OFFICE,  
K.H.ROAD, SHANTHINAGAR,  
BANGALORE-560 027,  
REP. BY ITS CHIEF LAW OFFICER.

..APPELLANT

(BY SRI F.S.DABALI, ADVOCATE)

**AND:**

1 . MRS MARSHAL @ SHEELA  
W/O LATE AROGYA RAJU,  
AGED ABOUT 37 YEARS,  
R/AT NO.34, VADERAHALLI,  
MUNESHWARA LAYOUT,  
POST VIDHYARANYAPURA,  
BANGALORE-560 097.

2 . MR JNANASWAMY  
S/O CHINNAPPA,  
AGED ABOUT 69 YEARS,  
R/AT NO.34, VADERAHALLI,  
MUNESHWARA LAYOUT,  
POST VIDHYARANYAPURA,  
BANGALORE-560 097.

3 . MRS MARIYARA PAL @ MARIGIREETHA  
 W/O JNANASWAMY,  
 AGED ABOUT 53 YEARS,  
 R/AT NO.34, VADERAHALLI,  
 MUNESHWARA LAYOUT,  
 POST VIDHYARANYAPURA,  
 BANGALORE-560 097.

4 . MAS ANTHONY  
 S/O LATE AROGYA RAJU,  
 AGED ABOUT 9 YEARS,  
 SINCE MINOR REP. BY HER MOTHER AS A NATURAL  
 GUARDIAN MRS MARSHAL @ SHEELA  
 RESPONDENT NO.1.  
 R/AT NO.34, VADERAHALLI,  
 MUNESHWARA LAYOUT,  
 POST VIDHYARANYAPURA,  
 BANGALORE-560 097.

5 . MAS STEPHEN RAJ  
 S/O LATE AROGYA RAJU,  
 AGED ABOUT 7 YEARS,  
 SINCE MINOR REP. BY HER MOTHER  
 AS A NATURAL GUARDIAN  
 MRS MARSHAL @ SHEELA  
 RESPONDENT NO.1.  
 R/AT NO.34, VADERAHALLI,  
 MUNESHWARA LAYOUT,  
 POST VIDHYARANYAPURA,  
 BANGALORE-560 097.

..RESPONDENTS

THIS MFA IS FILED UNDER SECTION 173(1) OF THE  
 MOTOR VEHICLES ACT AGAINST THE JUDGMENT AND  
 AWARD DATED 01.02.2019 PASSED IN MVC No.5971/2017  
 ON THE FILE OF THE IX ADDITIONAL SMALL CAUSES AND  
 ADDITIONAL MACT, BENGALURU (SCCH-7), AWARDED  
 COMPENSATION OF Rs.14,87,500/- WITH INTEREST @ 6%

P.A. FROM THE DATE OF PETITION TILL REALISATION OF ENTIRE AMOUNT.

THIS MFA COMING ON FOR ADMISSION THIS DAY, THE COURT DELIVERED THE FOLLOWING:

### **JUDGMENT**

The appeal is listed for admission and it is taken up for final disposal.

Appeal is directed against the Judgment and award dated 01.02.2019 passed in MVC No.5971/2017 by the IX Additional Small Causes Judge and XXXIV ACMM, Court of Small Causes, Member, MACT-7, Bengaluru, wherein claim petition came to be allowed in part and an amount of Rs.14,87,500/- with interest at the rate of 6% p.a. from the date of petition till realization of entire amount, came to be granted to the petitioners. Being aggrieved by the said judgment and award corporation has preferred this appeal.

2. In order to avoid confusion and overlapping, parties are referred to as per their rankings before the Tribunal.

3. Claim petition came to be filed by wife, child and parents of the deceased Arogya Raju. The details of the accident are: On 15.06.2017 at about 9.00 P.M. deceased was proceeding as a pillion rider on the motorcycle bearing registration No.KA-04-HY-3009 on Hesaraghatta Main Road, Lakshmipura, Bengaluru, the rider of motorcycle rode the same slowly and cautiously. Near Kolathuru Farm, the driver of BMTC bus bearing registration No.KA-01-FA-2168 drove the same in high speed, rash and negligent manner and dashed against the motorcycle from opposite direction and as a result deceased fell down and died on the spot.

4. Learned Member has granted compensation of Rs.14,87,500/- as per the following break up:

SL.NO.	DESCRIPTION	AMOUNT
1.	For loss of consortium	Rs. 40,000/-
2.	For loss of love and affection	Rs. 15,000/-
3.	For funeral, obsequies, ceremony and conveyance	Rs. 15,000/-
4.	For loss of dependency	Rs.14,17,500/-
	Total	Rs.14,87,500/-

5. Insofar as loss of dependency is concerned monthly income is considered at Rs.9,000/- considering the age of deceased at 41 years at the time of death, 25% is added as future prospects and  $\frac{1}{3}^{\text{rd}}$  is deducted towards personal and living expenses. Compensation under conventional heads at Rs.70,000/-.

6. Learned counsel for appellant Sri Dabali would submit that the quantum is unreasonably on the higher side considering the fact that the deceased was

a coolie and could not have earned Rs.9,000/- per month.

7. In the context and circumstances of the case, I do not find exorbitant in either consideration of notional income at the rate of Rs.9,000/- and future prospect at 25% in the light of the age of deceased being 41 years as on the date of accident.

8. The compensation granted by the Tribunal is just, fair and proper.

In the over all circumstances appeal filed by the corporation is devoid of merits and stands rejected.

Office is directed to transmit the amount in deposit to the Tribunal.

**Sd/-  
JUDGE**

SBN