



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF APRIL, 2024

BEFORE

THE HON'BLE MR JUSTICE T.G. SHIVASHANKARE GOWDA

MFA NO. 8170 OF 2013 (MV-I)

BETWEEN:

THE MANAGER
OREINTAL INSURANCE COMPANY LIMITED
JAYALAKSHMI MANSION, 2ND FLOOR
RAJKUMAR ROAD, 4TH BLOCK
RAJAJINAGAR, BANGALORE 560 010
BY THE DIVISIONAL MANAGER ... APPELLANT

(BY SRI.O.MAHESH, ADV.)

AND:

- 1 . NANJUNDASWAMY, MAJOR
S/O K SHIVALINGAPPA
KSRTC BUS CONDUCTOR
CHIGALLI VILLAGE
HOLEANARASIPURA TALUK
HASSAN DISTRICT 573 201
- 2 . THE MANAGER
KSRTC, MYSORE DIVISION
DEPOT MANAGER, KSRTC
DEPOT HASSAN 573 201 ... RESPONDENTS

(BY SRI.SANGAMESH R. B., ADV. FOR R1;
SMT.VIJAYALAKSHMI K., ADV. FOR
SRI.G.SHANKAR GOUD, ADV. FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT
AGAINST THE JUDGMENT AND AWARD DATED 7.06.2013
PASSED IN MVC NO.1/2011 ON THE FILE OF THE SENIOR
CIVIL JUDGE, JMFC, MCT, HOLENARASIPURA AWARDDING A
COMPENSATION OF RS.40,000/- WITH INTEREST AT 6% P.A.,
FROM THE DATE OF PETITION TILL THE DATE OF DEPOSIT
WITH COST.

Digitally signed by
HARIKRISHNA V
Location: HIGH COURT
OF KARNATAKA



THIS MFA HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 18.03.2024 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

In this appeal, the Insurance Company has challenged the judgment and award dated 07.06.2013 in M.V.C.No.1/2011 passed by the Senior Civil Judge and M.A.C.T., Holenarasipur ('the Tribunal' for short).

2. For the sake of convenience, the rank of the parties shall be referred to as per their status before the Tribunal.

3. Brief facts of the case are, on 27.09.2010 at about 01:00 p.m., the petitioner being the conductor of K.S.R.T.C. bus bearing Reg.No.KA-09/F-4089, was standing behind his bus, observing the incoming K.S.R.T.C. buses at Mysuru Rural K.S.R.T.C. Bus Stand at Madikeri Platform. At that time, K.S.R.T.C. bus bearing Reg.No.KA-42/F-243 came and parked across K.S.R.T.C. bus bearing Reg.No.KA-09/F-4089. Such being so, another K.S.R.T.C. bus bearing Reg.No.KA-



07/F-1411 entered the K.S.R.T.C. bus stand in a rash and negligent manner and hit against the petitioner, due to which the petitioner sustained the injuries for his shoulders and chest. He was treated at B.M. Hospital, Mysuru under hospitalization for 15 days and thereafter, he approached the Tribunal for grant of compensation of Rs.5,00,000/- from the owner of the K.S.R.T.C. bus bearing Reg.No.KA-07/F-1411.

3(a). Claim was opposed by respondent No.1 (K.S.R.T.C.) on the ground that the bus was insured with respondent No.2, that policy was in force and respondent No.2 has to be made as a party. Subsequently, respondent No.2 was impleaded.

3(b). Respondent No.2 opposed the claim on the ground that the driver of the K.S.R.T.C. bus bearing Reg.No.KA-07/F-1411 was not holding a valid and effective driving licence. The Tribunal after taking the evidence and hearing both the parties, by impugned judgment, allowed the claim petition awarding



compensation of Rs.40,000/- with 6% interest p.a.
The insurer of the bus has challenged the impugned judgment in this appeal on various grounds.

4. Heard the arguments of Sri. O. Mahesh, learned counsel for the Insurance Company, Sri. Sangamesh. R.B, learned counsel for the petitioner and Smt. Vijalakshmi. K, learned counsel on behalf of Sri. G. Shankar Goud, learned counsel for K.S.R.T.C.

5. It is the contention of the learned counsel for the Insurance Company that the bus in question was not at all involved in the accident; it is elicited in the cross-examination of the petitioner that the bus involved in the accident was KA-42/F-243; since the said bus was not insured, K.S.R.T.C. authorities and the petitioners in collusion, filed the claim petition against the Insurance Company and assisted each other in getting the compensation.

6. It is the contention of learned counsel for the petitioner that the petitioner being the conductor of the



K.S.R.T.C. bus, has no intention to claim the compensation from the Insurance Company as the claim was made against K.S.R.T.C. bus bearing Reg.No.KA-07/F-1411; only upon the direction of the Court, as the bus was insured, Insurance Company was impleaded later; the prosecution papers clearly point out the involvement of the bus in question which caused the injury to the petitioner; merely mention of one of the bus number in the wound certificate does not disable the petitioner from making the claim from the bus which caused the accident.

7. Per contra, learned counsel for K.S.R.T.C. has contended that paying a sum of Rs.40,000/- is not a big amount for the K.S.R.T.C.; since the reason of bus bearing Reg.No.KA-07/F-1411 was involved in the accident and it being insured with the Insurance Company by paying the premium, the Insurance Company being a public authority, for a small amount of Rs.40,000/-, has filed this appeal; the records placed before the Tribunal clearly point out that the



bus bearing Reg.No.KA-07/F-1411 was one which came and hit against the petitioner who was standing behind the bus bearing Reg.No.KA-42/F-243; merely on the fact that the bus No.KA-42/F-243 is mentioned in the wound certificate, is not fatal to the case and he sought for dismissal of the appeal.

8. I have given my anxious consideration to the arguments addressed on behalf of both parties and perused the records.

9. It is a peculiar case where an accident took place in the Mysuru Rural Bus Stand at Madikeri platform. No doubt that the petitioner is the conductor of bus bearing Reg.No.KA-09/F-4089. He was standing behind the said bus wherein bus bearing Reg.No.KA-42/F-243 was parked across his bus and thereafter bus bearing Reg.No.KA-07/F-1411 came and hit against the petitioner. This aspect has been clarified in the prosecution papers such as the F.I.R. and the charge sheet which are available on record as



per Exs.P4 and P2. The only reliance placed by the Insurance Company is the entry of bus No.KA-42/F-243 in the wound certificate marked at Ex.P3. It is relevant to extract the note made in the wound certificate:

"hit by a K.S.R.T.C. Bus while standing at KSRTC suburb bus stand on 27/09/2010 at 12:15 pm - Bus No. KA 42 F 243"

This note never refers that the bus bearing Reg.No.KA-42/F-243 was hit against the petitioner. As seen from the evidence on record, the petitioner was standing behind bus bearing Reg.No.KA-09/F-4089 and across the said bus, bus bearing Reg.No. KA-42/F-243 came and parked. Neither of these two buses were on movement at the time of the accident. The accident took place only after bus bearing Reg.No.KA-07/F-1411 entered the bus stand hitting against the petitioner. There is no substance in the argument canvassed on behalf of the Insurance Company that



the bus bearing Reg.No.KA-07/F-1411 was not involved in the accident.

10. On careful perusal of the evidence of the Divisional Controller of Mysuru Rural Sub-division of K.S.R.T.C. who is examined as CW-1 (Sri. Naveen) points out and asserts that bus bearing Reg.No.KA-07/F-1411 was the bus which caused the accident. Ex.C1 is the accident report given by the Traffic Inspector of Mysuru Rural Bus Stand that the bus bearing Reg.No.KA-07/F-1411 has caused the accident. Ex.C2 is the Covering Letter to Ex.C1 report and Ex.C3 is the sketch indicating the buses bearing Reg.Nos.KA-09/F-4089, also KA-42/F-243 and KA-07/F-1411. These are the evidence which clearly explain that the petitioner was caught in between the buses bearing Reg.Nos.KA-42/F-243 and KA-07/F-1411. As at the time of accident, bus No. KA-42/F-243 was stationed, it is the bus No.KA-07/F-1411 which was moving, the Tribunal has rightly observed and recorded its finding that fault is on the part of driver of



the bus bearing Reg.No.KA-07/F-1411. Hence, the argument canvassed on behalf of the Insurance Company is not persuasive.

11. The appeal did not challenge the quantum of compensation assessed, nor the petitioner has filed any appeal seeking the enhancement of compensation. Hence, it is not proper to go in-detail about the compensation awarded to the petitioner. Hence, the grounds urged in the appeal are devoid of merits. In the result, the following:

ORDER

The appeal is ***dismissed***.

**SD/-
JUDGE**

PA
CT:HS
List No.: 1 Sl No.: 2