



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

M.F.A. NO. 3567 OF 2022 (MV-DM)

BETWEEN:

BMTC
CENTRAL OFFICE,
K. H. ROAD, SHANTHINAGAR,
BENGALURU.
REP BY MANAGING DIRECTOR

...APPELLANT

(BY SMT. RADHA B. P., ADVOCATE)

AND:

1. IFFCO TOKIO GENERAL INSURANCE CO. LTD.,
3RD FLOOR, RD BLOCK,
NO.8, CUNNINGHAM ROAD,
BENGALURU-560 052.

2. MANJUNATHA B. N.,
S/O. NAGARAJA B. A.,
SHRI. MARUTHI NILAYA,
SHRI. BALAJI AUTOMOBILES,
B. B. ROAD, DEVANAHALLI,
BENGALURU-560 010.

...RESPONDENTS

(BY SRI. PRADEEP B., ADVOCATE FOR R1;
SRI. MAHESH K.H., ADVOCATE FOR R2)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 13.12.2021 PASSED IN
MVC NO.6422/2019 ON THE FILE OF THE III ADDITIONAL
JUDGE AND MEMBER, MACT, COURT OF SMALL CAUSES,
BENGALURU SCCH-18, PARTLY ALLOWING THE CLAIM





PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR DICTATING JUDGMENT, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

Disputing the validity and legality of the order that is rendered by the Motor Accident Claims Tribunal, Bengaluru in MVC No.6422/2019 dated 13.12.2021, the present appeal is filed.

2. Heard Smt.Radha.B.P, learned counsel for the appellant as well as Sri.Prdeep.B, learned counsel for respondent No.1. Respondent No.2 did not choose to submit his contentions.

3. On the ground that its bus bearing registration No.KA-57-F-1261 met with a road traffic accident due to which the vehicle got damaged and thereby loss, if quantified, to a tune of Rs.3,00,000/- is sustained, the appellant filed a petition claiming compensation of Rs.3,00,000/- in total. The Tribunal through the impugned



order awarded a sum of Rs.83,293/- as compensation towards damages. Aggrieved by the same, the present appeal is filed.

4. The matrix of the case as projected by the appellant before the Tribunal is that on 27.07.2018 at about 9.05 a.m. while its driver was driving the Volvo bus bearing registration No.KA-57-F-1261 from Madanayakanahalli to Manyatha Tech Park and when the bus reached near Kodegenahalli Gate, the driver of Ashok Leyland bus bearing registration No.KA-43-5109 drove the said bus at a high speed and in a rash and negligent manner and dashed against its bus due to which the bus was badly damaged. The bus was kept in workshop for repairs for more than 13 days and thereby huge loss was sustained.

5. Arguing the matter, Smt.B.P.Radha, learned counsel for the appellant submitted that through operation of the bus in question, the appellant was earning Rs.12,844/- per day. The bus was kept at workshop for



more than 13 days for effecting the required repairs. Thereby the appellant sustained loss of Rs.12,844/- each day. Though through the evidence of Pw.3 and Ex.P10 - Income and Loss statement, the appellant established the loss sustained, without appreciating the same, the Tribunal awarded meager sum of Rs.83,293/- towards damages and therefore, awarding the sum claimed, the appeal may be allowed.

6. The submission that is made by the learned counsel for respondent No.1 Sri.Pradeep.B on the other hand is that the total loss sustained by the appellant itself is Rs.9,000/-. However, the Tribunal awarded a sum of Rs.83,293/- as damages and thus the appeal itself is not maintainable. Learned counsel also stated that for effecting the required repairs, one day is more than sufficient. Learned counsel also contended that the witnesses who were produced by the appellant, during the course of cross examination clearly admitted that the spare buses were available at the relevant period which



itself establishes that the appellant did not sustain any loss. Learned counsel also contended that as loss of revenue was not established before the Tribunal, the appellant is not entitled for any further sum towards damages. In support of the submission thus made, learned counsel for respondent No.1 placed reliance upon the decision that is rendered by this Court of Dharwad Bench in the case between *North West Karnataka Transport Corporation vs. Pushpaja and Another* in MFA No.22143/2009 dated 10.01.2014.

7. For claiming any sum towards damages due to disfunction or malfunction of a vehicle and the resultant loss sustained, the claimant is required to establish in certain terms the following facts:

- (i) That the vehicle in question was damaged in the course of accident.
- (ii) The extent of damage caused to each part of the vehicle.
- (iii) Exact time that is required to be spent for effecting the required repairs.



- (iv) The sum incurred for effecting such repairs including replacement of damaged parts through spare parts if any and payment of charges to the mechanic for effecting those repairs.
- (v) Amount if any spent for shifting the vehicle from the place of accident to the Garage.
- (vi) The sum which was being earned through use of said vehicle.
- (vii) The expenditure that was being incurred per day for plying the said vehicle on road including its maintenance.
- (viii) The net profit that was being received.
- (ix) Whether there was any possibility for substituting the said vehicle with any spare vehicle and if so whether it was done.
- (x) In case the vehicle was substituted by spare vehicle, the loss if any sustained even after such substitution.
- (xi) Amount if any incurred for engaging or hiring another vehicle.

8. In the case on hand, the appellant failed to produce such cogent and convincing evidence to show that



13 days period was actually required to effect the required repairs. By the evidence that is brought on record it is clear that the vehicle in question remained at Hebbal Police Station for 2 days. For what purpose it was there at Police Station for the said period and why the appellant failed to take immediate steps claiming custody of the vehicle for effecting the required repairs is not made clear anywhere. Also by the evidence that is brought on record, it is clear that the appellant entered into an agreement with M/s. Embassy Services Private Limited for a period of 36 months. As per the version of the appellant the vehicle could not be put in use for 13 days. No convincing material is on record to show that M/s. Embassy Services Private Limited deducted the amount payable for 13 days during which the vehicle was not provided as per the version of the appellant. Without these facts being clearly brought on record, it is not possible to hold that the vehicle was kept idle for 13 days for the reason of effecting required repairs and that the said period is essential for effecting repairs



and also that the appellant sustained loss due to non-operation of the vehicle for the said period.

9. The Tribunal subjecting the entire evidence to scrutiny i.e., the evidence of Pws.1 to 3 and Exs.P1 to P30 came to a just conclusion with regard to each and every aspect of the case and ultimately held that the appellant is entitled to damages to a tune of Rs.83,293/-.

10. Therefore, this Court is of the view that there are no grounds whatsoever to interfere with the well reasoned order of the Tribunal. Thus this Court ultimately holds that the appeal lacks merits and deserves dismissal.

Resultantly, the appeal stands *dismissed* without costs.

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE