

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**DATED THIS THE 25<sup>TH</sup> DAY OF MAY, 2012.**: BEFORE :****THE HON'BLE MR. JUSTICE N.K. PATIL**M.F.A.NO. 10093 OF 2011 (MV)Between:

The Regional Office,  
Karnataka State Road Transport  
Corporation, K.H. Road,  
Bangalore-27.  
Rep. by its  
Chief Law Officer,  
NEKRTC, Central Office,  
Gulbarga.

... Appellant

(By Sri. K.S. Bharath Kumar, Advocate)

And:

Sri. Abhinava Siddalinga,  
Shivacharya Swamiji,  
Sri. Shila Mutt,  
Aged about 32 years,  
R/at. 359, 8<sup>th</sup> Main, 4<sup>th</sup> Block,  
3<sup>rd</sup> Stage, Basaveshwaranagar,  
Bangalore-79.

... Respondent

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This MFA is filed U/S 173(1) of MV Act, against the Judgment and Award dated: 15/07/2011 passed in MVC No. 2372/2010 on the file of the Principal MACT & Chief Judge, Court of Small Causes, Member, MACT, Bangalore, awarding a compensation of ₹4,16,278/- with interest at the rate @ 6% p.a. from the date of petition till realization.

This MFA coming on for Admission, this day, the Court delivered the following:

J U D G M E N T

This appeal by the Corporation is directed against the judgment and award dated 15<sup>th</sup> July 2011 passed in MVC No. 2372/2010 by the Principal MACT & Chief Judge, Court of Small Causes, Member, Motor Accident Claims Tribunal, Bangalore, (for short, 'Tribunal'), awarding compensation of ₹4,16,278/- with interest at 6% per annum, in favour of the respondent/claimant, on the ground that the compensation awarded by Tribunal is on the higher side and is liable to be reduced.

2. The facts in brief are that, the respondent/injured claimant had filed the claim petition under Section 166 of the Motor Vehicles Act, contending that, at about 7:30 P.M, on 15-11-2009, when the claimant along with four others was travelling from Yedyur to Tavarekere, after purchasing ration items in Arasikere market in 407 Van bearing Registration



No.KA-18/A-3880, and when they reached near Tangli on NH 206, the driver of the said 407 Van reduced the speed of his van and since there was heavy traffic, even then, all of a sudden, a KSRTC bus bearing Registration No.KA-36/F-663, came from opposite direction in a rash and negligent manner and dashed against the 407 Van in which the claimant and others were travelling. Due to the impact, two persons died on the spot and the claimant respondent and other passengers in the Bus sustained grievous injuries and immediately the claimant and others were shifted to Government Hospital, Kadur, for first aid treatment and thereafter on the advise of the Doctor, the claimant was shifted to PANACEA Hospital, Bangalore, where he was treated as in-patient from 16/11/2009 to 23/11/2009. He also underwent a surgery.

3. On account of the injuries sustained in the accident, the claimant filed the claim petition before the Tribunal, seeking compensation of a sum of ₹10.00 lakhs against the appellant/Corporation. The said



claim petition had come up for consideration before the Tribunal on 15<sup>th</sup> July 2011. The Tribunal, after considering the relevant material available on file and after appreciation of the oral and documentary evidence, allowed the claim petition in part, awarding a sum of ₹4,16,278/- under different heads, with 6% interest per annum, from the date of petition till the date of deposit and directed the Corporation to satisfy the entire award. Being aggrieved by the quantum of compensation awarded, the Corporation is in appeal before this Court, seeking to reduce the same.

4. I have gone through the grounds urged in the memorandum of appeal and the impugned judgment and award passed by Tribunal and heard the learned counsel appearing for the appellant/Corporation.

5. Learned counsel appearing for appellant/ Corporation, vehemently submits that, the Tribunal is not at all justified in assessing the income of the injured claimant at ₹10,000/- month time and the same is on the higher side, for the reason that no supportive



documentary evidence is produced Further, he submits that the whole body disability at 20% re-assessed by Tribunal is also on the higher side and therefore, he submits that taking reasonable income and re-assessing reasonable whole body disability, compensation awarded by Tribunal towards loss of future income may be modified. However, so far as the compensation awarded towards other heads are concerned, he submits that he has no grievance against the same as the same is just and reasonable.

6. After perusal of the impugned judgment and award passed by Tribunal and after hearing the learned counsel for Corporation, it reveals that the Tribunal has assessed the monthly income of the claimant on the basis of the oral evidence of PW1, where he has stated that he has been working as Swamiji of Shri Shaila Mutt, Tavarekere and earning ₹30,000/- per month and that he is Post Graduate in Sanskrit and also prosecuting his Ph.D. in Kuvempu University. But, in the absence of the documentary evidence in support of



the said monthly income, the Tribunal, having regard to the avocation and the year of accident and other relevant aspects of the matter, has assessed the monthly income of the claimant at ₹10,000/-. The claimant is working as a Swamiji being highly qualified and pursuing his research work in Sanskrit and earning substantial sum. The accident is of the year 2009. Therefore, having regard to the age, avocation and the year of accident, I am of the view that the income assessed by Tribunal is just and proper and there is no arbitrariness or unreasonableness as such in assessing the monthly income of the claimant by the Tribunal.

7. So far as the submission of the learned counsel regarding whole body disability is concerned, it can be seen that the claimant has sustained fracture of right humerus, fracture shaft of right femur, multiple rib fracture (II, III, IV, V, and VI left side), left sided haemopneumothorax, fracture lateral boarder of the left scapula and multiple abrasion present over face. Further, it is stated that all the aforesaid injuries



sustained are grievous in nature. Based on the injuries sustained, and upon examination of the claimant, PW3 Doctor has assessed the whole body disability at 25%. But, having regard to the facts and circumstances of the case, the Tribunal has re-assessed the whole body disability at 20%, which, in my view, is just and proper.

8. Further, it can be seen that, the proper multiplier applicable is, in fact, '17' as per the **Sarla Verma's case (2009 ACJ 1298)** instead of '16' adopted by Tribunal for calculating the loss of future income. If the same is adopted now, then, the compensation towards loss of future income would be more. Therefore, having regard to the age, avocation, nature of injuries, nature and duration of treatment, disability, etc., I am of the considered view that the compensation awarded by Tribunal towards loss of future income is just and proper and does not call for interference.

9. After critical evaluation of the entire material available on file, I do not find any justification or good ground as such made out by the appellant to interfere



in the quantum of compensation awarded by Tribunal towards loss of future income. The same is just and proper and interference in the same is uncalled for.

10. For the foregoing reasons, the appeal filed by the Corporation is liable to be dismissed as devoid of merits. Accordingly, it is dismissed.

Office is directed to transmit the amount in deposit by the Corporation to the jurisdictional Tribunal, forthwith.

Office to draw award, accordingly.

In view of dismissal of the main appeal filed by appellant on merits, the application, I.A.No.1/2011 filed for stay of the impugned judgment and award passed by Tribunal does not survive for consideration and it is accordingly, dismissed as having become infructuous.

**Sd/-  
JUDGE**

BMV\*