

IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT DHARWAD

Dated this the 30th day of November 2011

Before

THE HON'BLE MR.JUSTICE H.N.NAGAMOHAN DAS

Miscellaneous First Appeal No.22348/2010 (MV)

BETWEEN:

The Managing Director,
NWKRTC, its branch office,
Magavi Chamber, Haveri.
The appellant is represented by
Its Chief Law Officer,
Central Office, Hubli.

...Appellant

(By Sri. Shivakumar S.Badawadagi, Advocate)

A N D :

1. Basavaraj, S/o Fakkirappa Haveri,
Aged about 21 years, Occ: Student,
R/o Mulathalli, Tq: Hangal,
Dist: Haveri.
2. Prabhakar Prabhu,
S/o Venkataramana,
Prabhu Bhavadeep, owner of Bus,
Aged about 40 years,
Occ: Business, R/o Gandhi Maidan,
Kundapur, Dist: Udupi.
3. The Managing Director,
United India Insurance Co.,
Ltd., Branch Office, Opposite



Bus Stand, Mukтали Building,
Haveri.

...Respondents

(By Sri. Laxman B.Mannoddar, Advocate for R3)
(R1 - notice dispensed; R2 - served)

This miscellaneous first appeal is filed under Section 173(1) of the Motor Vehicles Act against the judgment and award dated 25.02.2010 passed in MVC No.157/2009 on the file of the District Judge, Motor Accident Claims Tribunal, Fast Track at Haveri, awarding the compensation of ₹85,000/- with interest at the rate of 6% p.a. from the date of petition till date of realisation.

This appeal coming on for admission this day, the court delivered the following:

JUDGMENT

This appeal is directed against the judgment and award dated 25th February 2010 in M.V.C. No.157/2009 passed by the Motor Accident Claims Tribunal at Haveri.

2. The vehicle involved in the accident belongs to the second respondent and insured with the respondent No.3. The owner of the vehicle that is respondent no.2 has given the vehicle on hire basis to the appellant. When the bus was under the control of appellant the accident had taken place. In the circumstances, the Tribunal held that the appellant is liable to pay the compensation.



3. Learned counsel for the appellant contends that in identical circumstances, the Supreme Court in *Uttar Pradesh State Road Transport Corporation vs. Kulsum* in Civil Appeal No.5901/2011 disposed on 25.7.2011 held that the insurance company is liable to pay the compensation.

4. In view of the law declared by the Apex Court, even after leasing of the vehicle by the owner the liability of the insurance company continues. Therefore, in the present case, the third respondent is liable to pay the compensation. Accordingly, the following:

ORDER

- I) Appeal is hereby allowed.
- II) The judgment and award dated 25.02.2010 passed in MVC No.157/2009 is modified directing the third respondent - insurance company to pay the compensation.

**Sd/-
JUDGE**

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