

**IN THE HIGH COURT OF KARNATAKA  
CIRCUIT BENCH AT DHARWAD**

**DATED THIS THE 28<sup>TH</sup> DAY OF OCTOBER, 2011**

**BEFORE**

**THE HON'BLE MRS.JUSTICE MANJULA CHELLUR**

M.F.A.Nos.24406/2010 C/W 20293/2010, 20294/2010,  
20287/2010, 20286/2010, 20285/2010, 20283/2010,  
20282/2010, 20280/2010, 20279/2010, 20295/2010  
and 20278/2010 (MV)

IN M.F.A.No.24406/2010

**BETWEEN:**

1. SMT. NAGAMMA  
W/O BASAVANAGOUDA PATIL,  
AGE: 28 YEARS, OCC: HOUSEHOLD,  
R/O MURKI BHAVI, TQ. BAILHONGAL,  
DIST. BELGAUM.
2. KUMAR SHRIDHAR  
S/O BASAVANAGOUDA PATIL,  
AGE: 12 YEARS, OCC: STUDENT,  
R/O MURKI BHAVI, TQ. BAILHONGAL,  
DIST. BELGAUM.
3. KUMARI. VISHALA  
D/O BASAVANAGOUDA PATIL,  
AGE: 10 YEARS, OCC: STUDENT,  
R/O MURKI BHAVI, TQ. BAILHONGAL,  
DIST. BELGAUM.  
(SINCE APPELLANT NO.2 AND 3 ARE  
MINORS, REP. BY NATURAL MOTHER  
APPELLANT NO.1)
4. RUDRAGOUDA S/O APPASAHEB PATIL,  
AGE: 67 YEARS, OCC: AGRICULTURE,  
R/O MURKI BHAVI, TQ. BAILHONGAL,  
DIST. BELGAUM.

by

5. SMT. NEELAWWA W/O RUDRAGOUDA PATIL,  
AGE: 62 YEARS, OCC: HOUSEHOLD,  
R/O MURKI BHAVI, TQ. BAILHONGAL,  
DIST. BELGAUM. ... APPELLANTS

(BY SRI.HANUMANT R.LATUR, ADV)

**AND:**

1. SRI. IRAPPA S/O SURESH PATIL,  
AGE: 50 YEARS, OCC: BUSINESS,  
R/O H. NO. 2618, MALIGALLI,  
BELGAUM.
2. THE NATIONAL INSURANCE CO. LTD.,  
1ST FLOOR, APMC YARD, P.B. NO. 24,  
SAUNDATTI, THROUGH THE DIVISIONAL MANAGER  
DIVISIONAL OFFICE, RAMDEV GALLI,  
BELGAUM.
3. AFCONS INFRASTRUCTURE LTD.,  
AFCONS HOUSE 16, SHAN INDUSTRIAL ESTATE  
VEER DESAI ROAD, AZAD NAGAR,  
P. O. P.B. NO. 11978, ANDERI (W),  
MUMBAI-53, MAHARASHTRA STATE.
4. THE ORIENTAL INSURANCE CO. LTD.,  
INDIAN MERCANTILE CHAMBERS,  
4TH FLOOR, 14TH R. KANAMI MARG,  
BALLARD ESTATE, MUMBAI,  
MAHARASHTRA STATE. THROUGH ITS  
DIVISIONAL MANAGER, SHANBAG  
CHAMBERS, KIRLOSKAR ROAD, BELGAUM.  
...RESPONDENTS

(BY SRI.L.B.MANNODDAR, ADV FOR R2,  
SRI.S.S.JOSHI, ADV FOF R4,  
R1 SD,  
C.V.ANGADI, ADV FOF R3)

MFA FILED U/SEC.173(1) OF MV ACT, AGAINST THE  
JUDGMENT AND AWARD DATED:24-09-2009 PASSED IN  
MVC.NO.315/2007, ON THE FILE OF THE MEMBER, MACT,

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BAILHONGAL, PARTLY ALLOWING THE CLAIM PETITION FOR  
COMPENSATION AND SEEKING ENHANCEMENT OF  
COMPENSATION.

IN M.F.A.No.20293/2010

BETWEEN

THE NATIONAL INSURANCE CO. LTD.  
1ST FLOOR APMC YARD P B NO.24,  
SOUNDATTI  
THROUGH THE DIVISIONAL MANAGER  
NATIONAL INSURANCE CO LTD  
DIVISIONAL OFFICE, RAMDEV GALLI, BELGAUM  
NOW REP  
BY ITS ASST MANAGER  
V C SINGANNAVAR  
NATIONAL INSURANCE CO LTD  
DIVISIONAL OFFICE  
RAMADEV GALLI BELGAUM. ... APPELLANT

(By Sri.: LAXMAN B MANNODDAR, ADV)

AND

1. CHINNAVVA  
W/O.SAKKARANAIAK SAVALAGI  
AGE:38 YEARS, OCC HOUSE HOLD  
MURAKIBHAVI TQ BAILJONGAL DIST BELGAUM
2. RAMESH S/O SAKKARNAIAK SAVALAGI,  
AGE:23 YEARS, OCC NIL  
R/O.MURAKIBHAVI TQ BAILHONGAL  
DIST BELGAUM
3. SHEKHARAPPA @ IRANNA  
S/O.SAKKARNAIAK SAVALAGI  
Age: 17 YEARS  
SINCE MINOR REP BY NATURAL MOTHER  
SMT.CHINNAVVA W/O.SAKKARNAIAK SAVALAGI  
AGE 38 OCC HOUSE HOLD WORK  
R/O.MURKIBHAVI TQ BAILHONGAL  
DIST BELGAUM

4. IRAPPA S/O.SURESH ULLAVI  
OCC BUSINESS Age: 43 YEARS  
R/O.H NO.2618, MALI GALLI BELGAUM
5. AFCON INFRASTRUCTURE LTD  
AFCON HOUSE NO.16  
SHAN INDUSTRIAL ESTATE VEER DESAI ROAD  
AZAD NAGAR P B NO.11978 ANDHERI (W)  
MUMBAI -53  
MAHARASHTRA STATE
6. THE ORIENTAL INSURANCE CO LTD  
INDIA MERCHANTILE CHAIMBERS  
4TH FLOOR 14TH R KANAMI MARG  
BALLARD ESTATE, MUMBAI MAHARASHTRA STATE  
THROUGH ITS  
DIVISIONAL MANAGER SHANABHAG CHAMBERS  
KIRLOSKAR ROAD BELGAUM. ... RESPONDENTS

(By Sri. HANAMANT.R.LATUR, ADV FOR R1-R3)  
SRI.S.S.JOSHI, ADV FOR R4,  
SRI.C.V.ANGADI, ADV FOF R5)

MFA FILED U/S. 173(1) OF M.V.ACT, AGAINST THE  
JUDGEMENT AND AWARD DATED:24-09-2009, PASSED IN M.V.C.  
NO. 331/2007 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS  
TRIBUNAL BAILHONGAL AT BAILHONGAL. AWARDDING  
COMPENSATION OF RS.4,87,900/- WITH INTEREST AT THE RATE  
OF 9% P.A. FROM THE DATE OF PETITION TILL THE DATE OF  
ACTUAL DEPOSIT.

IN MFA NO 20294 OF 2010

BETWEEN

THE NATIONAL INSURANCE CO. LTD.  
1ST FLOOR APMC YARD  
P B NO.24, SOUNDATTI  
THROUGH THE DIVISIONAL MANGAGER  
NATIONAL INSURANCE CO LTD,  
DIVISIONAL OFFICE, RAMDEV GALLI BELGAUM

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NOW REP BY ITS ASST MANAGER  
V C SINGANNAVAR  
NATIONAL INSURANCE CO LTD  
DIVISIONAL OFFICE, RAMADEV GALLI  
BELGAUM. ... APPELLANT

(By Sri. : LAXMAN B MANNODDAR, ADV)

AND

1. SIDANAGOUDA IRANAGOUDA PATIL  
OCC AGRIL Age: 28 YEARS  
R/O.MURKIBHAVI TQ BAILHONGAL  
DIST BELGAUM
2. SRI.IRAPPA S/O.SURESH ULLAVI  
OCC BUSINESS, Age: 43  
R/O.H.NO.2618, MALLI GALLI,  
BELGAUM,  
TQ AND DIST:BELGAUM.
3. AFCONS INFRASTRUCTURE LTD  
AFCON HOUSE NO.16,  
SHAN INDUSTRIAL ESTATE  
VEER DESAI ROAD  
AZAD NAGAR P B NO.11978  
ANDHERI (W) MUBBAI - 53  
MAHARASHTRA STATE.
4. THE ORIENTAL INSURANCE CO LTD  
INDIA MERCHANTILE CHAMBERS  
4TH FLOOR 14TH R KANAMI MARG  
BALLARD ESTATE, MUMBAI MAHARASHTRA STATE  
THROUGH ITS DIVISIONAL MANAGER  
SHANABHAG CHAMBERS  
KIRLOSKAR ROAD BELGAUM. ... RESPONDENTS

(By Sri. : SANTOSH.S.HATTIKATAGI, ADV FOR R1)  
R2 SD,  
SRI.C.V.ANGADI, ADV FOR R3,  
SRI.S.S.JOSHI, ADV FOR R4)

MFA FILED U/S. 173(1) OF M.V.ACT, AGAINST THE  
JUDGEMENT AND AWARD DATED:24-09-2009, PASSED IN M.V.C.

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NO. 129/2007 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL BAILHONGAL AT BAILHONGAL. AWARDING COMPENSATION OF RS.1,71,400/- WITH INTEREST AT THE RATE OF 9% P.A. FROM THE DATE OF PETITION TILL THE DATE OF ACTUAL DEPOSIT.

IN MFA NO.20287/2010

BETWEEN:

THE NATIONAL INSURANCE CO. LTD.  
I ST FLOOR APMC YARD P B NO 24  
SOUNDATTI  
THROUGH THE DIVISIONAL MANAGER  
NATIONAL INSURANCE CO.LTD  
DIVISIONAL OFFICE, RAMDEV GALLI BELGAUM  
NOW REP BY ITS  
ASST. MANAGER V C SINGANNAVAR  
NATIONAL INSURANCE CO.LTD  
DIVISIONAL OFFICE, RAMDEV GALLI,  
BELGAUM. ... APPELLANT

(By Sri. LAXMAN B MANNODDAR, ADV)

AND

1. KUMAR SIDDALING BASANAIAK HONGAL  
AGE:17 YEARS,  
OCC STUDENT & AGRIL  
SINCE MINOR REP BY NATURAL FATHER  
BASANAIAK BASAPPA HONGAL  
R/O MURKIBHAVI  
TQ BAILHONGAL  
DIST BELGAUM
2. SHRI IRAPPA S/O SURESH ULLAVI  
Age: 43 YEARS  
OCC BUSINESS  
R/O H NO 2618 MALI GALLI  
BELGAUM  
TQ & DIST BELGAUM

3. AFCON INFRASTRUCTURE LTD  
A FCON HOUSE NO 16  
SHAN INDUSTRIAL ESTATE  
VEER DESAI ROAD AZAD NAGAR  
P B NO 11978  
ANDHERI (W) MUMBAI - 53  
MAHARASHTRA STATE
4. THE ORIENTAL INSURANCE CO.LTD  
INDIA MERCHANTILE CHAMBERS  
4TH FLOOR 14TH R.KANAMI MARG  
BELLARD ESTATE MUMBAI  
MAHARASHTRA STATE  
THROUGH ITS DIVISIONAL MANAGER  
SHANABHAG CHAIMBERS  
KIRLOSKAR ROAD, BELGAUM. ... RESPONDENTS

(By Sri.: B B ALASANDI, ADV FOR R2)  
SRI.S.S.JOSHI, ADV FOR R4,  
SRI.C.V.ANGADI, ADV FOR R3)

MFA FILED U/S. 173(1) OF M.V.ACT, 1988, AGAINST THE  
JUDGEMENT AND AWARD DATED:24-09-2009, PASSED IN M.V.C.  
NO. 325/2007 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS  
TRIBUNAL, BAILHONGAL AT BAILHONGAL, AWARDDING  
COMPENSATION OF RS.5,600/- WITH INTEREST AT THE RATE OF  
9% P.A. FROM THE DATE OF PETITION TILL THE DATE OF ACTUAL  
DEPOSIT.

MFA NO 20286 OF 2010

BETWEEN

THE NATIONAL INSURANCE CO. LTD.  
I ST FLOOR APMC YARD P B NO 24 SOUNDATTI  
THROUGH THE DIVISIONAL MANAGER  
NATIONAL INSURANCE CO.LTD  
DIVISIONAL OFFICE RAMDEV GALLI BELGAUM  
NOW REP BY ITS ASST. MANAGER V C SINGANNAVAR  
NATIONAL INSURANCE CO.LTD DIVISIONAL OFFICE  
RAMDEV GALLI, BELGAUM. ... APPELLANT

(By Sri.: LAXMAN B MANNODDAR, ADV)

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AND

1. IRANNA @ SHEKHARAPPA  
S/O SAKKARNAIK SAVALAGI  
Age: 18 YEARS  
OCC STUDENT  
R/O MURKIBHAVI  
TQ BAILHONGAL  
DIST BELGAUM
2. SHRI IRAPPA S/O SURESH ULLAVI  
Age: 43  
OCC BUSINESS  
R/O H NO 2618 MALI GALLI  
BELGAUM  
TQ & DIST BELGAUM
3. AFCON INFRASTRUCTURE LTD  
A FCON HOUSE NO 16  
SHAN INDUSTRIAL ESTATE  
VEER DESAI ROAD AZAD NAGAR  
P B NO 11978  
ANDHERI (W) MUMBAI - 53  
MAHARASHTRA STATE
4. THE ORIENTAL INSURANCE CO.LTD  
INDIA MERCHANTILE CHAMBERS  
4TH FLOOR 14TH KANAMI MARG  
BELLARD ESTATE MUMBAI  
MAHARASHTRA STATE  
THROUGH ITS DIVISIONAL MANAGER  
SHANABHAG CHAMBERS  
KIRLOSKAR ROAD, BELGAUM. ... RESPONDENTS

(By Sri. : S S JOSHI, ADV FOR R4,  
Sri.C.V.ANGADI, ADV FOR R3)

MFA FILED U/S.173(1) OF THE MV ACT, AGAINST THE  
JUDGEMENT AND AWARD DATED: 24-09-2009, PASSED IN MVC  
NO.324/2007, ON THE FILE OF THE MOTOR ACCIDENT CLAIMS  
TRIBUNAL BAILHONGAL AT BAILHONGAL. AWARDING  
COMPENSATION OF RS.3,000/- WITH INTEREST AT THE RATE OF

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9% PER ANNUM FROM THE DATE OF PETITION TILL THE DATE OF  
ACTUAL DEPOSIT.

IN MFA NO 20285 OF 2010

BETWEEN

THE NATIONAL INSURANCE CO. LTD.  
I ST FLOOR APMC YARD P B NO 24 SOUNDATTI  
THROUGH THE DIVISIONAL MANAGER  
NATIONAL INSURANCE CO.LTD  
DIVISIONAL OFFICE, RAMDEV GALLI BELGAUM  
NOW REP BY ITS ASST. MANAGER  
V C SINGANNAVAR  
NATIONAL INSURANCE CO.LTD DIVISIONAL OFFICE  
RAMDEV GALLI, BELGAUM. ... APPELLANTS

(By Sri. : LAXMAN B MANNODDAR, ADV)

AND

1. SHRI BASANAIAK BASAPPA CHIATAGUNDI  
Age: 53 YEARS  
OCC AGRICULTURE  
R/O MURKIBHAVI  
TQ BAILHONGAL  
DIST BELGAUM
2. SHRI IRAPPA S/O SURESH ULLAVI  
Age: 43 YEARS  
OCC BUSINESS  
R/O H NO 2618 MALI GALLI  
BELGAUM  
TQ & DIST BELGAUM
3. AFCON INFRASTRUCTURE LTD  
A FCON HOUSE NO 16  
SHAN INDUSTRIAL ESTATE  
VEER DESAI ROAD AZAD NAGAR  
P B NO 11978  
ANDHERI (W) MUMBAI - 53  
MAHARASHTRA STATE

4. THE ORIENTAL INSURANCE CO.LTD  
INDIA MERCHANTILE CHAMBERS  
4TH FLOOR 14TH KANAMI MARG  
BELLARD ESTATE MUMBAI  
MAHARASHTRA STATE  
THROUGH ITS DIVISIONAL MANAGER  
SHANABHAG CHAMBERS KIRLOSKAR RD BELGAUM  
... RESPONDENTS

(By Sri.: HANAMANT R LATUR FOR R1,  
Sri.BHARATESH ALASANDI, ADV FOR R2,  
SRI.S.S.JOSHI, ADV FOR R4,  
SRI.C.V.ANGADI, ADV FOR R3)

MFA FILED U/S. 173(1) OF THE MOTOR VEHICLES ACT  
1988, AGAINST THE JUDGEMENT AND AWARD DATED: 24-09-  
2009, PASSED IN MVC NO.323/2007, ON THE FILE OF THE  
MOTOR ACCIDENT CLAIMS TRIBUNAL BAILHONGAL AT  
BAILHONGAL. AWARDDING THE COMPENSATION OF RS.5,300/-  
WITH INTEREST AT THE RATE OF 9% PER ANNUM FROM THE  
DATE OF PETITION TILL THE DATE OF ACTUAL DEPOSIT.

IN MFA NO 20283 OF 2010

BETWEEN

THE NATIONAL INSURANCE CO. LTD.  
1ST FLOOR, APMC. YARD, P.B.NO.24, SOUNDATTI,  
THROUGH THE DIVISIONAL MANAGER,  
NATIONAL INSURANCE CO., LTD.,  
DIVISIONAL OFFICE,  
RAMDEV GALLI, BELGAUM  
NOW REPRESENTED BY ITS  
ASST. MANAGER V.C.SINGANNAVAR  
NATIONAL INSURANCE CO., LTD.,  
DIVISIONAL OFFICE,  
RAMADEV GALLI,  
BELGAUM.

... APPELLANT


(By Sri.: LAXMAN B MANNODDAR, ADV)



AND

1. SRI.MUDDANAGOUDA BABAGOUDA PATIL  
AGE; 58 YRS, OCC:AGRL.,  
R/O MURKIBHAVI TQ:BAILAHONGAL  
BELGAUM
  2. SRI. IRAPPA S/O SURESH ULLAVI  
AGE:43 YRS, OCC:BUSINESS,  
R/O H.NO. 2618  
MALI GALLI, BELGAUM  
BELGAUM
  3. AFCONS INFRACUTURER LTD.  
AFCON H.NO.16 , SHAN INDUSTRIAL ESTATE  
VEER DESAI ROAD, AZAD NAGAR  
P.B.NO.11978, ADHERI (W) MUMBAI  
MAHARASTRA
  4. THE ORIENTAL INSURANCE CO.LTD  
INDIAN MERCHANTILE CHAMBERS,  
4<sup>TH</sup> FLOOR, 14<sup>TH</sup> R.KANAMI MARG,  
BALLARAD ESTATE MUMBAI, BY ITS  
DIVI. MANAGER, SHANBHAG CHAMBERS  
KIRLOSKAR ROAD, BELGAUM  
BELGAUM. ... RESPONDENTS
- (By Sri.: S S JOSHI, ADV FOR R4,  
R2 SD,  
SRI.C.V.ANGADI, ADV FOR R3)

MFA FILED U/S.173(1) OF THE M.V.ACT, AGAINST THE  
JUDGEMENT AND AWARD DATED: 24-09-2009, PASSED IN MVC  
NO.320/2007, ON THE FILE OF THE MEMBER, ADDL.MACT,  
BAILHONGAL, AWARDDING COMPENSATION OF RS.4,600/- ALONG  
WITH INTEREST AT THE RATE OF 9% P.A.



IN MFA NO 20282 OF 2010

BETWEEN

THE NATIONAL INSURANCE CO. LTD.  
I ST FLOOR APMC YARD P B NO 24 SOUNDATTI  
THROUGH THE DIVISIONAL MANAGER  
NATIONAL INSURANCE CO.LTD  
DIVISIONAL OFFICE RAMDEV GALLI BELGAUM  
NOW REP BY ITS ASST. MANAGER  
V C SINGANNAVAR  
NATIONAL INSURANCE CO.LTD  
DIVISIONAL OFFICE  
RAMADEV GALLI, BELGAUM. ... APPELLANT

(By Sri. : LAXMAN B MANNODDAR, ADV)

AND

1. SHRI ISHWAR BASAPPA SAVALAGI  
Age: 53 YEARS  
OCC AGRICULTURE  
R/O MURKIBHAVI  
TQ BAILHONGAL  
DIST BELGAUM
2. SHRI IRAPPA S/O SURESH ULLAVI  
Age: 43 YEARS  
OCC BUSINESS  
R/O H NO 2618 MALI GALLI  
BELGAUM  
TQ & DIST BELGAUM
3. AFCON INFRASTRUCTURE LTD  
A FCON HOUSE NO 16  
SHAN INDUSTRIAL ESTATE  
VEER DESAI ROAD AZAD NAGAR  
P B NO 11978  
ANDHERI (W) MUMBAI - 53  
MAHARASHTRA STATE
4. THE ORIENTAL INSURANCE CO.LTD  
INDIA MERCHANTILE CHAIMBERS  
4TH FLOOR 14TH R.KANAMI MARG

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BELLARD ESTATE MUMBAI  
MAHARASHTRA STATE  
THROUGH ITS DIVISIONAL MANAGER  
SHANABHAG CHAMBERS KIRLOSKAR RD  
BELGAUM. ... RESPONDENTS

(By Sri.: HANAMANT R LATUR, FOR R1,  
SRI.BHARATESH ALASANDI, ADV FOR R2,  
SRI.C.V.ANGADI, ADV FOR R3,  
SRI.S.S.JOSHI, ADV FOR R4)

MFA FILED U/S.173(1) OF THE M.V.ACT, AGAINST THE  
JUDGEMENT AND AWARD DATED: 24-09-2009, PASSED IN MVC  
NO.319/2007, ON THE FILE OF THE MEMBER, ADDL.MACT,  
BAILHONGAL, AWARDED COMPENSATION OF RS.4,900/- ALONG  
WITH INTEREST AT THE RATE OF 9% P.A.

IN MFA NO 20280 OF 2010


BETWEEN

THE NATIONAL INSURANCE CO. LTD.  
1<sup>ST</sup> FLOOR, APMC YARD,  
P.B.NO.24, SOUNDATTI,  
THROUGH ITS DIVISIONAL MANAGER,  
NATIONAL INSURANCE CO LTD.,  
DIVISIONAL OFFICE, RAMDEV GALLI,  
BELGAUM, NOW REP. BY ITS  
ASST. MANAGER V.C.SINGANNAVAR  
NATIONAL INSURANCE CO., LTD.,  
DIVISIONAL OFFICE,  
RAMDEV GALLI, BELGAUM. ... APPELLANT

(By Sri. : LAXMAN B MANNODDAR, ADV)

AND

1. BASANAIAK S/O BASAPPA HONGAL  
AGE 41 YRS, OCC: PRIVATE SERVICE  
R/O MURKIBHAVI, BAILHONGAL-TQ  
BELGAUM



2. SRI.IRAPPA S/O SURESH ULLAVI  
43 YRS, OCC:BUSINESS  
R/O H.NO. 2618, MALI GALLI, BELGAUM  
BELGAUM
3. AFCON INFRACTURE LTD.,  
AFCON H.NO.16 SHAN INDUSTRIAL ESTATE  
VEER DESAI ROAD, AZAD NAGAR,  
P.B.NO.11978,ANDHERI (W), MUMBAI-53  
MAHARASTRA STATE.
4. THE ORIENTAL INSURANCE COM.LTD  
INDIA MERCHANTILE CHAMBERS , 4TH FLOOR  
14TH R R., KANAMI MARG, BALLARD ESTATE  
MUMBAI, MAHARASHTRA STATE THROUGH ITS  
DIVISIONAL MANAGER, SHANBHAG CHAMBERS,  
KIRLOSKAR ROAD , BELGAUM  
BELGAUM. ... RESPONDENTS


(By Sri. : HANAMANT R LATUR, ADV FOR R1,  
SRI.BHARTESH B.ALASANDI, ADV FOR R2,  
SRI.C.V.ANGADI, ADV FOR R3,  
SRI.S.S.JOSHI, ADV FOR R4)

MFA FILED U/S. 173(1) OF M.V.ACT, AGAINST THE  
JUDGEMENT AND AWARD DATED:24-09-2009, PASSED IN M.V.C.  
NO. 317/2007 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS  
TRIBUNAL BAILHONGAL AT BAILHONGAL. AWARDING  
COMPENSATION OF RS. 1,17,300/- WITH INTEREST AT THE RATE  
OF 9% P.A. FROM THE DATE OF PETITION TILL THE DATE OF  
ACTUAL DEPOSIT.

IN MFA NO 20279 OF 2010

BETWEEN

THE NATIONAL INSURANCE CO. LTD.  
IST FLOOR, APMC YARD, P.B.NO.24,  
SOUNDATTI, THROUGH THE DIVISIONAL MANAGER,  
NATIONAL INSURANCE CO., LTD.,  
DIVISIONAL OFFICE, RAMDEV GALLI,  
BELGAUM,



NOW R/B. ASST MANAGER  
V.C. SINGANNAVAR, NATIONAL INSURANCE CO.LTD  
DIVISIONAL OFFICE, RAMDEV GALLI, BELGAUM  
BELGAUM. ... APPELLANT

(By Sri. : LAXMAN B MANNODDAR, ADV)

AND

1. RUDRANAIAK S/O CHANDRANAIAK CHIVATAGUNDI  
AGE:48 YRS, OCC:AGRL., VEGITABLE VENDING  
R/O MURKIBHAVI, BAILAHONGAL-TQ  
BELGAUM
2. IRAPPA S/O SURESH ULLAAVI  
43 YRS, OCC:BUSINESS  
R/O H.NO. 2618, MALI GALLI, BELGAUM  
BELGAUM
3. AFCON INFRASTRUCTURE LTD  
AFCON H.NO. 16, SHAN INDUSTRIAL ESTATE  
VEER DESAI ROAD, AZAD NAGAR,  
P.B.NO.11978, ANDHERI (W) MUMBAI  
MAHARASTRA
4. THE ORIENTAL INSURANCE CO.LTD  
INDIA MECHANTILE CHAMBERS, 4TH FLOOR  
14TH R.KANAMI MARG, BALLARD ESTATE,  
MUMBAI, MAHARASHTRA STATE  
THROUGH ITS DIVI. MANAGER,  
SHANBHAG CHAMBERS, KIRLOSKAR ROAD  
BELGAUM. ... RESPONDENTS

(By Sri./Smt : HANAMANT.R.LATUR. ADV FOR R1,  
R2 SD,  
SRI.C.V.ANGADI, ADV FOR R3,  
SRI.S.S.JOSHI, ADV FOR R4)

MFA FILED U/S. 173(1) OF M.V.ACT, 1988: AGAINST THE  
JUDGEMENT AND AWARD DATED:24-09-2009, PASSED IN M.V.C.  
NO. 316/2007 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS  
TRIBUNAL BAILHONGAL AT BAILAHONGAL. AWARDDING  
COMPENSATION OF RS. 1,73,400/- WITH INTEREST AT THE RATE



OF 9% P.A. FROM THE DATE OF PETITION TILL THE DATE OF  
ACTUAL DEPOSIT.

IN MFA NO 20295 OF 2010

BETWEEN

THE NATIONAL INSURANCE CO. LTD.  
1ST FLOOR, APMC YARD, P.B.NO.24,  
SOUNDATTI, THROUGH THE DIVISIONAL MANAGER,  
NATIONAL INSURANCE CO., LTD.,  
DIVISIONAL OFFICE, RAMDEV GALLI,  
BELGAUM,  
NOW R/B. ASST MANAGER  
V.C. SINGANNAVAR, NATIONAL INSURANCE CO.LTD  
DIVISIONAL OFFICE, RAMDEV GALLI, BELGAUM  
BELGAUM. ... APPELLANT

(By Sri. : LAXMAN B MANNODDAR, ADV)

AND

1. SHRI.BASANAGOUDA SHIVANAGOUDA YADAVINAIKAR  
AGE:43 YRS, OCC:AGRICULTURE,  
R/O MURKIBHAVI, BAILAHONGAL-TQ  
DIST:BELGAUM
2. IRAPPA S/O SURESH ULLAAVI  
43 YRS, OCC:BUSINESS  
R/O H.NO. 2618, MALI GALLI, BELGAUM  
BELGAUM
3. AFCON INFRASTRUCTURE LTD  
AFCON H.NO. 16, SHAN INDUSTRIAL ESTATE  
VEER DESAI ROAD, AZAD NAGAR,  
P.B.NO.11978, ANDHERI (W) MUMBAI  
MAHARASTRA
4. THE ORIENTAL INSURANCE CO.LTD  
INDIA MECHANICAL CHAMBERS, 4TH FLOOR  
14TH R.KANAMI MARG, BALLARD ESTATE,  
MUMBAI, MAHARASHTRA STATE

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THROUGH ITS DIVI. MANAGER,  
SHANBHAG CHAMBERS, KIRLOSKAR ROAD  
BELGAUM. ... RESPONDENTS

(By Sri. : BHARATESH B.ALASANDI, ADV FOR R2,  
R1 SD,  
SRI.C.V.ANGADI, ADV FOR R3,  
SRI.S.S.JOSHI, ADV FOR R4)

MFA FILED U/S. 173(1) OF M.V.ACT, 1988: AGAINST THE  
JUDGEMENT AND AWARD DATED:24-09-2009, PASSED IN M.V.C.  
NO. 588/2007 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS  
TRIBUNAL BAILHONGAL AT BAILAHONGAL. AWARDING  
COMPENSATION OF RS. 4,200/- WITH INTEREST AT THE RATE OF  
9% P.A. FROM THE DATE OF PETITION TILL THE DATE OF ACTUAL  
DEPOSIT.

IN MFA NO 20278 OF 2010

BETWEEN

THE NATIONAL INSURANCE CO. LTD.  
1ST FLOOR APMC YARD P B NO 24  
SAUNDATTI  
THROUGH THE DIVISIONAL MANAGER  
NATIONAL INSURANCE CO.LTD  
DIVISION OFFICE RAMDEV GALLI BELGAUM  
NOW REP BY ITS ASST. MANAGER  
V.C.SINGANNAVAR  
NATIONAL INSURANCE CO., LTD.,  
DIVISIONAL OFFICE,  
RAMDEV GALLI, BELGAUM. ... APPELLANT

(By Sri./Smt : LAXMAN B MANNODDAR, ADV)

AND

1. SMT NAGAMMA W/O BASANAGOUDA PATIL  
Age: 29 YEARS, OCC H/W  
R/O MURKIBHAVI, TQ BAILHONGAL  
DIST BELGAUM
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2. KUMAR SHRIDHAR  
Age: 13 YEARS  
S/O BASANAGOUDA PATIL  
OCC STUDENT

3. KUMARI VISHALA  
Age: 11 YEARS  
D/O BASANAGOUDA PATIL  
OCC STUDENT

SINCE RESPONDENTS 2 AND 3 ARE MINORS  
REP BY N/M  
PETITIONER NO 1 SMT NAGAMMA  
W/O BASANAGOUDA PATIL

4. RUDRAGOUDA APPASAHEB PATIL  
Age: 68 YEARS  
OCC AGRICULTURE  
R/O MURKHIBHAVI,  
TAL:BAILHONGAL  
DIST BELGAUM

5. SMT. NEELAWWA, W/O RUDRAGOUDA PATIL,  
Age: 63 YEARS  
OCC: HOUSE HOLD WORK,  
R/O. MURKHIBHAVI, TQ: BAILHONGAL,  
DIST: BELGAUM.

6. SRI IRAPPA S/O SURESH ULLAVI  
AGE:43 YEARS OCC:BUSINESS  
R/O H.NO.2618, MALI GALLI BELGAUM  
TQ: AND DIST:BELGAUM.

7. AFCON INFRASTRUCTURE LTD  
AFCON HOUSE NO 16 SHAN INDUSTRIAL ESTATE  
VEER DESAI ROAD AZAD NAGAR  
P B NO 11978 ANDHERI (W)  
MUMBAI - 53  
MAHARASHTRA STATE

8. THE ORIENTAL INSURANCE CO.LTD  
INDIA MERCHANTILE CHAIRMBERS  
4TH FLOOR 14TH R KANAMI MARG  
BALLARD ESTATE MUMBAI

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MAHARASHTRA STATE  
THROUGH ITS DIVISIONAL MANAGER  
SHANABHAG CHAMBERS KIRLOSKAR ROAD  
BELGAUM. ... RESPONDENTS

(By Sri./Smt : HANUMANTH R LATUR, ADV FOR R1 TO 5,  
R6 SD,  
SRI.C.V.ANGADI, ADV FOR R7,  
SRI.S.S.JOSHI, ADV FOR R8)

MFA FILED U/S. 173(1) OF M.V.ACT, AGAINST THE  
JUDGEMENT AND AWARD DATED:24-09-2009, PASSED IN M.V.C.  
NO. 315/2007 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS  
TRIBUNAL BAILHONGAL AT BAILHONGAL. AWARDED  
COMPENSATION OF RS. 5,80,000/- WITH INTEREST AT THE RATE  
OF 9% P.A. FROM THE DATE OF PETITION TILL THE DATE OF  
ACTUAL DEPOSIT.

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

**JUDGMENT**

M.F.A.No.24406/2010 is filed by the appellants-  
claimants for enhancement of compensation in respect of  
death of Basavanagouda Patil pertaining to  
M.V.C.No.315/2007 on the file of MACT, Bailhongal. All  
other connected appeals are filed by the insurer of tempo  
trax bearing No.KA-22/2534 denying the liability to pay  
entire compensation as the driver of the tipper lorry  
bearing No.TN-69/1358 also contributed negligence for

the occurrence of the accident on 04.10.2006 and also on the ground that the insured of the tempo trax violated the terms of the policy by allowing 20 passengers to travel in the tempo whereas the permit was only for 12 passengers.

2. The brief facts that lead to the filing of the above appeals are as under:

On 04.10.2006 at 01.00 hours (mid night 1'O clock), according to the claimants, they were all inmates of the tempo trax bearing No.KA-22/2534 and were proceeding to different places in the tempo trax. On -3.10.2006, the tempo left the origin and several persons were carried in the said tempo from place to place. The destination of the tempo was Hubli. The accident occurred near Agadi cross within the limits of Hubli rural police station on P.B.Road. It was 1'O clock mid night on 04.10.2006. According to the complainant, when the tempo reached Agadi cross on P.B.Road, due to rash and negligent driving of the driver of the tempo, accident occurred resulting in death of 3

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persons and injuries to several others. Out of 20 passengers, 2 were minors and 18 were adults. The tempo trax said to have dashed against tipper which was stationed by the side of the road facing towards Hubli. According to the claimants, the tipper was stationed there for repairs and it was due to the sole negligence of the driver of the tempo, the accident occurred. The fact remains the claim petitions were against the owner and insurer of both the vehicles. The Tribunal opined that the accident was due to rash and negligent driving of the driver of the tempo trax and therefore the insurer of the tempo trax was directed to indemnify the owner. The insurer of the tempo trax was saddled with the liability of payment of compensation in 12 cases wherein highest compensation was awarded and in rest of the matters, compensation had to be paid by the owner of the tempo trax. Aggrieved by the said judgment and award, the claimants in M.V.C.No.315/2006 have approached this court seeking enhancement of compensation and in rest of

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the appeals, the insurer of the tempo trax challenges the award on all grounds.

3. According to the learned counsel for the insurer of the tempo trax, the facts on record would speak for themselves how the accident has occurred unless the tipper was standing there without any caution by flashing parking lights, the accident would not have occurred. In other words, the very tipper was without any parking lights, therefore, the accident occurred and hence driver of the tipper was also equally responsible for the occurrence of the accident.

4. As against this, the respondents counsel appearing for the insurer of the tipper contends that the contents of the complaint and other records indicate how the accident has occurred. The fact that the tempo trax dashed the rear portion of the tipper on the right side of the vehicle indicates it was the driver of the tempo trax who was responsible for the occurrence of the accident and



therefore there was no negligence of any nature on the part of the driver of the tipper. He has also placed before the court copies of the exhibits that came to be marked before the MACT and the criminal case records indicate complaint came to be lodged by one Rudranaik s/o Shivanaik. The contents of Ex.P.3 indicate Rudranaik was also travelling in the said tempo trax at the time of accident. After occurrence of the accident, he was the one who went to the police station and lodged a complaint at about 6.30 a.m. on 04.10.2006. Based on the said complaint, investigation was taken up and ultimately chargesheet also came to be filed against the driver of the tempo trax after completion of the investigation. The contents of complaint of Ex.P.3 indicates after having a cup of coffee when they proceeded towards Hubli in the tempo and when they reached Agadi cross, the driver of the tempo was rash and negligent in driving the tempo trax. Therefore, he dashed against the stationed tipper. This resulted in death of 3 persons as stated above apart

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from causing injuries to others. The Motor Vehicle Inspector's Report which is at Ex.P.5 indicates that the damages caused to the tipper are very negligent and the damage was on the rear right side corner of the tipper and all other parts were found in order. So far as the tempo trax, front wind screen glass, left side portion of the body and seats were fully damaged and the things that had scattered there would indicate the force of impact on the vehicles when the accident occurred. The front portion of the tempo trax has come into contact with the right rear portion of the tipper. Of course, nothing is stated about the parking lights of the tipper in the complaint lodged by Mr.Rudranaik. We cannot gather such information either from mahazar of the spot or from the Motor Vehicle Inspector's Report. But the fact remains several injured persons were examined who were travelling in the said tempo trax at the time of accident. They have clearly explained how the accident has occurred. When the insurer of the tempo trax takes defence of contributory

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negligence on the part of the driver of the tipper, the burden is on the insurer to establish how driver of tipper also contributed negligence for the occurrence of the accident. Such proof could be either from the cross-examination of the witnesses examined by the claimants or by examining other independent witnesses. The best evidence in this case would be to examine the driver of the tempo trax who could have stated what exactly was the situation when accident occurred and why he could not avoid the accident. If the tipper was stationed without any parking lights or any other caution as the vehicle was under repair, such material must come on record in order to saddle the insurer of the tipper with the liability of payment of compensation. Nothing is placed on record indicating that there was any attempt on the part of the insurer of the tempo trax to examine the driver of the tempo trax. In that view of the matter, the Tribunal was justified in holding that the driver of the tempo trax was

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responsible for the accident as could be gathered from the material on record.


5. Then coming to the other contention raised by the insurer that the permit of the tempo trax was only to carry 12 passengers and therefore the owner has violated the terms of policy. As already stated, 2 out of 20 passengers were minors and naturally they had to be in the company of their guardians. Even otherwise, the liability against the insurer of tempo trax is only in respect of 12 claims and not all the claims. Therefore, the Tribunal was justified in holding that the insurer of tempo trax was responsible to indemnify the owner. Whether the owner had the knowledge of driver carrying that many passengers is a question of fact and the appellant/insurer has not let in any material on this aspect of the matter. Therefore, it is not open to them now to say that the owner was responsible for the violation of terms of contract. Hence, they are not liable to indemnify him.

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6. Then coming to the appeal of the claimants in M.F.A.No.24406/2010, the claimants in this case are wife and children of one Basavanagouda Patil apart from the parents of Basavanagouda Patil. Father of the deceased was aged about 67 years and his occupation is also shown as agriculture. The claimants were not able to bring on record any specific material indicating the exact age of the deceased. Therefore, the Tribunal proceeded to compute compensation based on the age shown in the post mortem report of the deceased. As per the records at Murkibhavi village, the family of the deceased had 15 acres 26 guntas of land. It is also suggested that one of the land bearing Sy.No.12/3 is standing in the name of wife of the deceased. In all there are 5 claimants including the parents of the deceased. Except placing RTC pertaining to the lands, no other material is forthcoming whether the lands belonged to the deceased or they belong to the entire family. The fact remains father of the deceased was

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already 67 years or so at the time of accident and none of the children of the deceased were majors. Some material came to be placed on record to show that sugar cane worth Rs.75,509/- came to be supplied to M.K.Hubli Sugar Factory, on 12.08.2008. RTC extract of the lands and also six receipts issued by M.K.Hubli Sugar Cane Factory, indicates deceased was cultivating his lands by growing sugar cane and other crops. The claimants have stated the annual income of the deceased from the lands was about 2 lakhs apart from income from milk vending. Except one document from M.K.Hubli Sugar Factory, no other documents are forthcoming to show whether he marketed the produce and how much income on average basis the deceased made from these lands in the past 3 years prior to his death. He was a graduate but no document to substantiate the same is forthcoming. From the material on record, one can definitely conclude that deceased must have worked on these lands in order to earn sufficient income for the maintenance of the family.



If he was earning Rs.2 lakhs from agriculture apart from milk vending, he must have maintained bank accounts but none of those documents are before this court. If he was supplying sugar to any particular factory, he would have also maintained a supply book where details of supply is entered. However, the fact remains there was 15 acres of land. If not entire land, at least some portion of the land must have been used for growing sugar cane and other lands must have been used for growing other crops. To look after 15 acres of land apart from the capacity of securing the labour and other inputs for better cultivation of the lands, one should be able to administer the cultivation as well. It needs managerial capacity to supervise the labour in the land. It is nobody's case that other family members are capable of discharging similar service to the family. In the absence of the deceased, we cannot conclude that there is deprivation of source of income because the family still holds the lands and by engaging a good manager or a supervisor one can look




after the lands. This involves spending money to engage such services. Even if a supervisor is engaged, he may not do the qualitative service as that of the deceased who has bondage not only with the land but with the family. In that view of the matter, one has to assess the loss caused to the family on account of deprivation of supervisory service rendered by the deceased Basavanagouda Patil. The Tribunal has taken Rs.4,000/- as earnings of the deceased without even reasoning how it has arrived at this Rs.4,000/-. It is not the income of the deceased but one has to quantify the supervisory capacity which is lost to the family of the deceased. Keeping in mind that 15 acres of land is to be managed by the family with the assistance of supervisor and a labour, minimum they must be able to spend Rs.5,000/- per month for engaging services of a good supervisor. This is the loss that is caused to the family per month on average basis. Even if we deduct  $\frac{1}{4}$ th from this, Rs.3,750/- would be loss of contribution of the deceased to the family per month. As he was aged

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about 35 years, multiplier would be 16 in view of the law laid down in Sarla Verma's case (2009 ACJ 1292). The loss of contribution to the family by the deceased has to be calculated as under  $3750 \times 12 \times 16 = 7,20,000/-$ . This has to be the amount of loss of dependancy so far as the family is concerned.

7. So far as other heads, the Tribunal has awarded Rs.10,000/- under each head i.e., Rs.40,000/- and this court is of the opinion, there is no need to disturb the said quantum of Rs.40,000/- under other heads. In all, the appellants are entitled for Rs.7,60,000/- as compensation. The enhanced compensation will carry interest at 6% p.a. from the date of petition till the date of deposit.


8. The insurer also has contended that rate of interest awarded by the Tribunal at 9% p.a. is exorbitant. The Tribunal was not justified in awarding 9% uniform interest in all the cases. So far as the appeals filed by the insurer, 3 are death cases and rest of them are injury cases. The



interest awarded by the Tribunal has to be reduced to 6% p.a. so far as the rate of interest awarded and satisfied. So far as the liability against the owner, as the owner has not preferred any appeal, we are not interfering with those orders of the Tribunal.

9. In view of the above discussion and reasoning, M.F.A.No.24406/2010 is allowed in part with costs. The enhanced compensation of Rs.1,80,000/- shall carry interest at 6% p.a. from the date of petition till the date of deposit. Eight week's time is granted to deposit the enhanced amount together with costs and interest from the date of receipt of copy of the order.

All the appeals filed by the insurer are partly allowed only with regard to reduction of rate of interest from 9% p.a. to 6% p.a. The amount in deposit be sent to the concerned Tribunal.





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Sri.C.V.Angadi, learned counsel is granted two week's  
time to file his vakalath.

Sd/-  
JUDGE

Jm/-