

IN THE HIGH COURT OF KARNATAKA  
CIRCUIT BENCH, DHARWAD

DATED THIS THE 30<sup>TH</sup> DAY OF MARCH, 2012

BEFORE

THE HON'BLE MR.JUSTICE SUBHASH B.ADI

M.F.A.CROB.712/2011 C/W  
M.F.A.No.20616/2009 (MV)

IN M.F.A.CROB.712/2011

BETWEEN:

1. SMT.PARVATEWWA  
W/O LAXMAPPA UNNIBHAVI @ PATIL  
AGE:62 YEARS, OCC:HOUSEHOLD WORK,
2. SMT.SAVITREWWA  
W/O RAYAPPA UNNIBHAVI @ B.PATIL  
AGE:26 YEARS, OCC:HOUSEHOLD WORK,
3. SMT.KUMAR LAXMAPPA  
S/O RAYAPPA UNNIBHAVI @ B.PATIL  
AGE:6 YEARS, OCC:STUDENT,

ALL R/C VARCHAGAL, TQ:MUDHOL,  
DIST:BAGALKOT,  
SINCE MINOR REP. BY HIS MOTHER AND  
MG APPELLANT NO.2.

..... CROSS OBJECTORS

(BY SRI.N.L.BATAKURKI, ADV.)

AND:

THE K.S.R.T.C. DEPOT  
MANAGER GULBARGA.

.....RESPONDENT

(By SRI.RAVI V.HOSAMANI, ADV)

THIS CROB. IS FILED UNDER ORDER 41 RULE 22 OF CPC, AGAINST THE JUDGMENT AND ORDER DATED 28.08.2008 PASSED IN MVC NO.272/2005 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL NO.VI, JAMKHANDI, SITTING AT MUDHOL, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

IN M.F.A.No.20616/2009

BETWEEN:

THE KSRTC, DEPOT MANAGER,  
GULBARGA, PRESENTLY REPRESENTED BY  
THE CHIEF LAW OFFICER, NEKRTC,  
CENTRAL OFFICE, GULBARGA. ... APPELLANT

(BY SRI.RAVI V.HOSAMANI, ADV)

AND:

1. SMT.PARVATEWWA  
W/O LAXMAPPA UNNIBAVI @ B.PATIL,  
64 YEARS, HOUSEWIFE,  
R/O VARCHAGAL, TQ:MUDHOL.
2. SMT.SAVITREWWA  
W/O RAYAPPA UNNIBAVI @ B.PATIL  
29 YEARS, HOUSEWIFE,  
R/O VARCHAGAL, TQ:MUDHOL.
3. KUMAR LAXMAPPA  
W/O RAYAPPA UNNIBAVI @ B.PATIL,  
AGE:8 YEARS,  
SINCE MINOR REPRESENTED BY THE  
MOTHER AND NATURAL GUARDIAN  
RESPONDENT NO.2 HEREIN. ... RESPONDENTS

(BY SRI.N.L.BATAKURKI, ADV)

THIS APPEAL IS FILED U/S 173 (1) OF M.V. ACT AGAINST THE JUDGMENT AND AWARD DATED 28.08.2008 PASSED IN M.V.C.No.272/2005 ON THE FILE OF THE MACT, NO.VI, JAMKHANDI SITTING AT MUDHOL, AWARDED A COMPENSATION

OF Rs.4,01,000/- WITH INTEREST @ 6% P.A. FROM THE DATE OF PETITION TILL DEPOSIT.

THIS CROB A/W APPEAL COMING ON FOR ORDERS, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

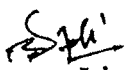
#### JUDGMENT

1. Sri.Ravi V.Hosamani, learned counsel is directed to take notice for the Corporation in cross objection.
2. There is inordinate delay of 523 days in filing the cross objection. Having regard to the facts and circumstances, delay is condoned.
3. M.F.A.No.20616/2009 is by the Corporation questioning the liability and the quantum of compensation whereas the claimants have filed M.F.A.Crob.712/2011 seeking enhancement of compensation.
4. The Tribunal by its judgment and award dt.28.08.2008 has granted compensation of Rs.4,01,000/- with interest. It has held that the accident occurred on account of rash and negligent driving by the driver of the bus of the Corporation. However, learned counsel for the appellant-Corporation

*Sd/-*

submits that in the evidence, the witness has stated that the motor-cycle dashed against the bus. Hence, he submits that the negligence is on the part of the rider of the motor-cycle. The stray sentence read by the learned counsel for the appellant that by itself prove that the rider of the motor-cycle was rash and negligent but the evidence on record including the police record do suggest that the accident occurred on account of the rash and negligent driving by the driver of the bus. However, the evidence of the witness relied by the learned counsel for the appellant-Corporation is not an eye witness to the accident. Hence, no reliance could be placed.

5. The claimants are the wife, children and mother of the deceased. While calculating the compensation, the Tribunal has applied multiplier of 14 though the deceased was 40 years. Hence, right multiplier applicable is 15 and even the income taken is on the lower side. Hence, the income could be taken at Rs.4,000/- per month with 15 multiplier. Hence, the claimants are entitled for  $\text{Rs.}2666 \times 12 \times 15 = 4,79,880/-$  and Rs.50,000/- towards conventional heads. Accordingly,



the claimants are entitled Rs.5,29,880/- as against Rs.4,01,000/ awarded by the Tribunal. In all the claimants are entitled for additional compensation of R.1,28,880/- rounded off to Rs.1,30,000/- with interest. Accordingly, the appeal by the Corporation is dismissed and cross objection by the claimants is allowed in part.

6. However, the claimants are not entitled for the interest on the enhanced compensation for a period of 523 days. Amount in deposit be transferred to the Tribunal.

Sd/-  
JUDGE

Jm/-