

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

DATED THIS THE 31ST DAY OF MAY, 2013
BEFORE
THE HON'BLE MR.JUSTICE A.S.BOPANNA
M.F.A. No.21783/2012 (MV)

BETWEEN

THE DIVISIONAL CONTROLLER,
NWKRTC, BELGAUM DIVISION,
BELGAUM.
REP.BY CHIEF LAW OFFICER,
NWKRTC GOKUL ROAD, HUBLI.

..... APPELLANT

(BY SRI MADANMOHAN M KHANNUR)

AND

1. SUNANDA W/O CHIDANAND PUJERI,
AGE : 42 YEARS, OCC : GOVT.,SERVANT.
R/O.4370, CHAVAT GALLI,
DIST : BELGAUM.
2. RUDRAPPA S/O VEERAPPA KALHAL,
AGE : 57 YEARS, OCC : AGRIL.,
R/O.DEVI CEMENT, SPIN PIPE FACTORY,
LOKAPUR, TQ : MUDHOL,
DIST : BAGALKOT.
3. THE DIVISIONAL MANAGER,
THE ORIENTAL INSURANCE CO., LTD.,
CLUB ROAD, BELGAUM.
MADIWALE ARCADE

..... RESPONDENTS

MFA FILED U/S 173(1) OF MV ACT, 1988, AGAINST THE JUDGMENT AND AWARD DATED:19-07-2011 PASSED IN MVC NO.310/2010 ON THE FILE OF PRESIDING OFFICER, FAST TRACK COURT-IV, BELGAUM, AWARDING THE COMPENSATION OF RS.750/- WITH INTEREST AT THE RATE OF 9% P.A., FROM THE DATE OF PETITION TILL THE DATE OF ACTUAL DEPOSIT.

THIS APPEAL COMING ON FOR HEARING-INTERLOCUTORY APPLICATION, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

Though the appeal is listed to consider the application seeking condonation of delay, I have perused the appeal papers and heard the learned counsel for the appellant to find out whether on merits any case is made out and whether notice is necessary for consideration of the application for condonation of delay.

2. The learned counsel for the appellant while assailing the judgment and award passed in MVC No.310/2009 would contend that the Tribunal was not justified in apportionment of negligence on the part of the driver of the appellant's vehicle. It is further contended that

the quantum of compensation awarded is also on the higher side and the same calls for interference.

3. In the light of the contention put forth by the learned counsel for the appellant, I have perused the judgment and award passed by the Court below. The issue relating to the negligence, which resulted in the accident, which occurred on 23.05.2009 had been considered while answering issue No.1. The Tribunal on referring to the evidence tendered by PWs-1 to 3 and also RWs-1 and 2 has taken note of the documents at Ex.P-1 to P-6, more particularly, the Panchanama at Ex.P-3. In that light, no doubt, the Tribunal has taken the fact that the charge sheet was filed against the driver of goods vehicle which was involved in the accident with the bus belonging to the appellant. Notwithstanding the same, the Tribunal thereafter has taken the spot sketch and width of the road into consideration and therefore was of the opinion that the driver of the appellant's bus had also contributed negligence to a certain extent as such only 25% has been held against

the driver of the appellant. I see no error in the finding recorded by the Tribunal.

4. With regard to the quantum, the medical evidence and the documents relating to the injuries suffered have been taken into consideration by the Tribunal. The document at Ex.P-6 has indicated the nature of injuries suffered by the claimant in the said claim petition and in that light, the evidence recorded by PW-5 Dr. A.B. Patil has been kept in view. Even in that regard I see no error. Therefore, the appeal being devoid of merit is disposed of.

5. In view of disposal of the appeal, the applications in I.A.Nos.1 & 2/2012 are also disposed of.

6. The amount in deposit be transmitted to the Tribunal.

**SD/-
JUDGE**

Naa