

IN THE HIGH COURT OF KARNATAKA
GULBARGA BENCHDATED THIS THE 28TH DAY OF MARCH, 2014

BEFORE:

THE HON'BLE MR. JUSTICE A.S. PACHHAPURE

MISCELLANEOUS FIRST APPEAL No.30723 OF 2009 [MV]
C/w.MISCELLANEOUS FIRST APPEAL Nos.30719, 31685,
30722, 30720, 30718, 30725, 30726, 30724, 30717,
30721, 31678, 31679, 31686, 31682, 31680, 31684,
31681, 30714, 31683/2009, 32295/2010,
31677/2009, 31509/2010, 30863/2011 AND
M.F.A CROSS-OBJECTION No.1555/2013
[IN MFA No.30863/11] [MV]IN MFA No.30723/09:BETWEEN:

Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Division Office, Opp: KEB Main Road,
Near Mini Vidhana Soudha,
Gulbarga,
Rep. by its Divisional Manager:
M.A.Quayum. ... APPELLANT/S

[By Smt. Preeti S.Melkundhi, Adv.]

AND:

1. Naganath,
s/o. Digamber Panchal,

age: 45 years,
Occ: Carpenter,

2. Amba Bai,
w/o. Naganath Panchal,
age: 40 years,
Occ: Household,

Both R1 & 2 are
r/o. Jalakota village,
Tq: Tuljapur,
Dist: Osmanabad,
Now at Pattan,
Dist: Gulbarga.

3. Syed Jaheed,
s/o. Nooruddin,
age: 35 years,
Occ: Driver of vehicle
No.KA-32/A-4665,
r/o. Mominapura, Chacha Hotel,
Gulbarga.

4. Mohd. Ismail,
s/o. Haji Shaikh Chandsab,
age: 40 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada village,
Tq: Yadgir,
Dist: Gulbarga.

... RESPONDENT/S

[By Sri. K.A.Kalburgi, Adv. for R1 & 2.
Notice to R3 is dispensed with
v.c.o. dated 10.02.2011.
Notice to R4 is served.]

This MFA is filed under Section 173(1) of M.V. Act against the Judgment and Award dated 29.11.2008 passed in MVC No.1014/07 on the file of the Prl. Civil Judge [Sr. Dn.] and MACT., Gulbarga, partly allowing the claim petition and seeking set aside the impugned Judgment.

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IN MFA No.30719/09:

BETWEEN:

Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Division Office, Opp: KEB Main Road,
Near Mini Vidhana Soudha,
Gulbarga,
Rep. by its Divisional Manager:
M.A.Quayum. ... APPELLANT/S

[By Smt. Preeti S.Melkundhi, Adv.]

AND:

1. Prema,
w/o. Sadu Kshirsagar,
age: 48 years,
Occ: Household,
2. Santosh,
s/o. Sadu Kshirsagar,
age: 30 years,
Occ: Private Work,

3. Sanjay,
s/o. Sadu Kshirsagar,
age: 28 years,
Occ: Student,

4. Kiran,
s/o. Sadu Kshirsagar,
age: 26 years,
Occ: Student,

R1 to 4 are r/o. Jalakot,
Tq: Tuljapur,
Dist: Osmanabad,
Now at H.No.1/128, Shahabazaar,
Gulbarga.

5. Syed Jaheed,
s/o. Nooruddin,
age: 35 years,
Occ: Driver of vehicle
No.KA-32/A-4665,
r/o. Mominapura,
Chacha Hotel,
Gulbarga.

6. Mohd. Ismail,
s/o. Haji Shaikh Chandsab,
age: 40 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada village,
Tq: Yadgir,
Dist: Gulbarga.

... RESPONDENT/S

[By Sri. K.A.Kalburgi, Adv. for R1 to 3.

Sri. Shivasharan Reddy, Adv. for R4.
Sri. S.M.Kandkur, Adv. for R5.
Notice to R6 is served.]

This MFA is filed under Section 173(1) of M.V. Act against the Judgment and Award dated 29.11.2008 passed in MVC No.1096/07 on the file of the Prl. Civil Judge [Sr. Dn.] and MACT., Gulbarga, partly allowing the claim petition and seeking set aside the impugned Judgment.

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IN MFA No.31685/09:

BETWEEN:

1. Savita,
w/o. Shivanand Yadgouda,
age: 23 years,
Occ: Household,
2. Krishnappa,
s/o. Appanappa,
age: 54 years,
Occ: Agriculture,

Both A1 & 2 are r/o. Jalakota,
Tq: Tuljapur,
Dist: Osmanabad,
Now at Pattan village,
Tq: Gulbarga.

... APPELLANT/S

[By Sri. K.A.Kalburgi, Adv.]

AND:

1. Syed Jaheed,
s/o. Nooruddin,
age: 35 years,
Occ: Driver,
r/o. Mominapura,
Chacha Hotel,
Gulbarga.
2. Mohd. Ismail,
s/o. Haji Shaikh Chandbasha,
age: 40 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada village,
Tq: Yadgir,
Dist: Gulbarga.
3. Oriental Insurance Co. Ltd.,
Through its Divisional Manager,
Gulbarga. ... RESPONDENT/S

[By Sri. Safiz Ahmed Qureshi, Adv. for R1.
Sri. Shivasharan Reddy &
Sri. S.M.Kandkur, Adv. for R2.
Smt. Preeti S.Melkundhi, Adv. for R3.]

This MFA is filed under Section 173(1) of M.V. Act against the Judgment and Award dated 29.11.2008 passed in MVC No.1017/07 on the file of the Civil Judge [Sr. Dn.] and MACT., Gulbarga, partly allowing the claim petition and seeking enhancement of the compensation.

IN MFA No.30722/09:

BETWEEN:

Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Division Office, Opp: KEB Main Road,
Near Mini Vidhana Soudha,
Gulbarga,
Rep. by its Divisional Manager:
M.A.Quayum. ... APPELLANT/S

[By Smt. Preeti S.Melkundhi, Adv.]

AND:

1. Sheetal Singh,
s/o. Vithal Singh,
age: 45 years,
Occ: Agriculture,
r/o. Jalakota village,
Tq: Tuljapur,
Dist: Osmanabad,
Now at H.No.1-970,
Mahaveer Nagar,
Dist: Gulbarga.
2. Sundra Bai,
w/o. Sheetal Singh,
age: 40 years,
Occ: Household,
r/o. Jalakota village,
Tq: Tuljapur,
Dist: Osmanabad,

Now at H.No.1-970, Mahaveer Nagar,
Dist: Gulbarga.

3. Syed Jaheed,
s/o. Nooruddin,
age: 35 years,
Occ: Driver of vehicle
No.KA-32/A-4665,
r/o. Mominpura,
Chacha Hotel,
Gulbarga.

4. Mohd. Ismail,
s/o. Haji Shaikh Chandsab,
age: 40 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada,
Tq: Yadgir,
Dist: Gulbarga.

... RESPONDENT/S

[By Sri. K.A.Kalburgi, Adv. for R1.
Sri. Shafiq Ahmed Quareshi, Adv. for R3.
Notice to R2 & 4 are served.]

This MFA is filed under Section 173(1) of
M.V. Act against the Judgment and Award dated
29.11.2008 passed in MVC No.1012/07 on the file
of the Prl. Civil Judge [Sr. Dn.] and MACT.,
Gulbarga, partly allowing the claim petition and
seeking set aside the impugned Judgment.

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IN MFA No.30720/09:

BETWEEN:

Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Division Office, Opp: KEB Main Road,
Near Mini Vidhana Soudha,
Gulbarga,
Rep. by its Divisional Manager:
M.A.Quayum. ... APPELLANT/S

[By Smt. Preeti S.Melkundhi, Adv.]

AND:

1. Krishnappa,
s/o. Appanappa,
age: 53 years,
Occ: Agriculture,
r/o. Jalakota,
Tq: Tuljapur,
Dist: Osmanabad,
now at Pattan,
Gulbarga,
2. Syed Jaheed,
s/o. Nooruddin,
age: 35 years,
Occ: Driver of vehicle No.
KA-32/A-4665,
r/o. Mominpura, Chacha Hotel,
Gulbarga.
3. Mohd. Ismail,
s/o. Haji Shaikh Chandsab,

age: 40 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357,
Koliwada,
Tq: Yadgir,
Dist: Gulbarga. ... RESPONDENT/S

[By Sri. K.A.Kalburgi, Adv. for R1.
Notice to R3 is served. Notice to R2
is dispensed with v.c.o. dated
19.01.2011.]

This MFA is filed under Section 173(1) of
M.V. Act against the Judgment and Award dated
29.11.2008 passed in MVC No.1010/07 on the file
of the Prl. Civil Judge [Sr. Dn.] and MACT.,
Gulbarga, partly allowing the claim petition and
seeking set aside the impugned Judgment.

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IN MFA No.30718/09:

BETWEEN:

Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Division Office, Opp: KEB Main Road,
Near Mini Vidhana Soudha,
Gulbarga,
Rep. by its Divisional Manager:
M.A.Quayum. ... APPELLANT/S

[By Smt. Preeti S.Melkundhi, Adv.]

AND:

1. Laxmi Bai,
w/o. Mahadev Swamy,
age: 36 years,
Occ: Household,
2. Umesh,
s/o. Mahadev Swamy,
age: 19 years,
Occ: Student,
3. Mahesh,
s/o. Mahadev Swamy,
age: 16 years,
Occ: Student,
4. Santosh,
s/o. Mahadev Swamy,
age: 13 years,
Occ: Student,
5. Mangesh,
s/o. Mahadev Swamy,
age: 11 years,
Occ: Student,

R3 to 5 are since minors,
u/G. of their mother R1. R1 to
R5 are r/o. Jalakot, Tq: Tuljapur,
Dist: Osmanabad,
No.2 at H.No.1-79/2, Hamawadi,
Gulbarga.

6. Syed Jaheed,
s/o. Nooruddin,

age: 35 years,
Occ: Driver of vehicle
No.KA-32/A-4665,
r/o. Mominpura,
Chacha Hotel,
Gulbarga.

7. Mohd. Ismail,
s/o. Haji Shaikh Chandbsab,
age: 40 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada,
Tq: Yadgir,
Dist: Gulbarga. ... RESPONDENT/S

[By Sri. K.A.Kalburgi, Adv. for R1.
R2 to 5 are minors, rep.by R1.
Notice to R7 is served.
Notice to R6 is dispensed with
v.c.o. dated 19.01.2011.]

This MFA is filed under Section 173(1) of
M.V. Act against the Judgment and Award dated
29.11.2008 passed in MVC No.1013/07 on the file
of the Prl. Civil Judge [Sr. Dn.] and MACT.,
Gulbarga, partly allowing the claim petition and
seeking set aside the impugned Judgment.

* * *

IN MFA No.30725/09:

BETWEEN:

Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Division Office, Opp: KEB Main Road,
Near Mini Vidhana Soudha,
Gulbarga,
Rep. by its Divisional Manager:
M.A.Quayum. ... APPELLANT/S

[By Smt. Preeti S.Melkundhi, Adv.]

AND:

1. Shivaraj,
S/o. Virupakshappa Katthe,
Age: 47 years,
Occ: Nil,

2. Rukmini Bai,
W/o. Virupakshappa Katthe,
Age: 33 years,
Occ: Household,

Both are r/o. Jalakota village,
Tq: Tuljapur,
Dist: Osmanabad,
Now at H.No.9-100,
Shahabazaar,
Dist: Gulbarga.

3. Syed Jaheed,
S/o. Nooruddin,
Age: 35 years,
Occ: driver of vehicle

No.KA-32/A-4665,
R/o. Mominpura,
Chacha Hotel
Gulbarga.

4. Mohd. Ismail,
S/o. Haji Shaikh Chandsab,
Age: 40 years,
Occ: Owner of Vehicle,
R/o. H.No.2-1357,
Koliwada,
Tq: Yadgir,
Dist: Gulbarga. ... RESPONDENT/S

[By Sri. K.A.Kalburgai, Adv. for R1 & 2.
Sri.Sri. Shivasharana Reddy, Adv. for R4.
Notice to R3 is dispensed with
v.c.o. dated 11.02.11.]

This MFA is filed under Section 173(1) of
M.V. Act against the Judgment and Award dated
29.11.2008 passed in MVC No.1018/07 on the file
of the Prl. Civil Judge [Sr. Dn.] and MACT.,
Gulbarga, partly allowing the claim petition and
seeking set aside the impugned Judgment.

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IN MFA No.30726/09:

BETWEEN:

Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Division Office, Opp: KEB Main Road,
Near Mini Vidhana Soudha,
Gulbarga,

Rep. by its Divisional Manager:

M.A.Quayum.

... APPELLANT/S

[By Smt. Preeti S.Melkundhi, Adv.]

AND:

1. Sunanda Bai,
W/o. Iranna Rachoti,
Age: 38 years,
Occ: Household,

2. Gajanna,
S/o. Iranna Rachoti,
Age: 19 years,
Occ: Student,

3. Suvarna,
D/o. Iranna Rachoti,
Age: 17 Years,
Occ: Student,

R3 is since minor, under
Guardianship of her natural
Mother R1. R1 to 3 are
R/o. Jalakot, Tq: Tuljapur,
Dist: Osmanabad,
Now at H.No.110/B,
Police Quarters,
Dist: Gulbarga.

4. Syed Jaheed,
S/o. Nooruddin,
Age: 35 years,
Occ: driver of vehicle
No.KA-32/A-4665,
R/o. Mominpura, Chacha Hotel,
Gulbarga.

5. Mohd. Ismail,
S/o. Haji Shaikh Chandsab,
Age: 40 years,
Occ: Owner of Vehicle,
R/o. H.No.2-1357,
Koliwada, Tq: Yadgir,
Dist: Gulbarga. ... RESPONDENT/S

[By Sri. K.A.Kalburgai, Adv. for R1 & 2.
Sri. Shivasharana Reddy, Adv. for R5.
R3 is minor rep. by R1. Notice to
R4 is dispensed with v.c.o. dated
28.02.2011.]

This MFA is filed under Section 173(1) of
M.V. Act against the Judgment and Award dated
29.11.2008 passed in MVC No.1016/07 on the file
of the Prl. Civil Judge [Sr. Dn.] and MACT.,
Gulbarga, partly allowing the claim petition and
seeking set aside the impugned Judgment.

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IN MFA No.30724/09:

BETWEEN:

Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Division Office,
Opp: KEB Main Road,
Near Mini Vidhana Souda,
Gulbarga,
Rep. by its Divisional Manager:
Sri. M.A.Quaym. ... APPELLANT/S

[By Smt. Preeti S.Melkundhi, Adv.]

AND:

1. Savita,
w/o. Shivanand Yadgouda,
age: 22 years,
Occ: Household,

2. Krishnappa,
s/o. Appanappa,
age: 60 years,
Occ: Agriculture,

Both R1 & 2 are r/o. Jalakota,
Tq: Tuljapur, Dist: Osmanabad,
Now at Pattan, Tq; Gulbarga.

3. Syed Jaheed,
s/o. Nooruddin,
age: 35 years,
Occ: Driver of vehicle
No.KA-32/A-4665,
r/o. Mominapura, Chacha Hotel,
Gulbarga.

4. Mohd. Ismail,
s/o. Haji Shaikh Chandsab,
age: 40 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada village,
Tq: Yadgir, Dist: Gulbarga. ... RESPONDENT/S

[By Sri. K.A.Kalburgi, Adv. for R1 & 2.
Sri. Shivasharan Reddy, Adv. for R3.
Notice to R4 is served.]

This MFA is filed under Section 173(1) of M.V. Act against the Judgment and Award dated 29.11.2008 passed in MVC No.1017/07 on the file of the Prl. Civil Judge [Sr. Dn.] and MACT., Gulbarga, partly allowing the claim petition and seeking set aside the impugned Judgment.

IN MFA No.30717/09:

BETWEEN:

Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Division Office, Opp: KEB Main Road,
Near Mini Vidhana Soudha,
Gulbarga,
Rep. by its Divisional Manager:
M.A.Quayum. ... APPELLANT/S

[By Smt. Preeti S.Melkundhi, Adv.]

AND:

1. Sunanda Bai,
W/o. Varadappa,
Age: 45 years,
Occ: Household,
2. Dhanraj,
S/o. Varadappa,
Age: 17 years,
Occ: Student,

3. Santosh,
S/o. Varadappa,
Age: 17 Years,
Occ: Student,

R3 is since minor, under
Guardianship of her natural
Mother R1. R1 to 3 are
R/o. Jalakot, Tq: Tuljapur,
Dist: Osmanabad,
Now at H.No.1-972,
Mahaveer Nagar,
Dist: Gulbarga.

4. Syed Jaheed,
S/o. Nooruddin,
Age: 35 years,
Occ: driver of vehicle
No.KA-32/A-4665,
R/o. Mominpura,
Chacha Hotel
Gulbarga.

5. Mohd. Ismail,
S/o. Haji Shaikh Chandsab,
Age: 40 years,
Occ: Owner of Vehicle,
R/o. H.No.2-1357,
Koliwada,
Tq: Yadgir,
Dist: Gulbarga.

... RESPONDENT/S

[By Sri. K.A.Kalburgai, Adv. for R1 & 2.
Sri. Shivasharana Reddy, Adv. for R5.
R3 is minor rep. by R1.
Sri. Shafiq Ahmed Quareshi, Adv. for R4]

This MFA is filed under Section 173(1) of M.V. Act against the Judgment and Award dated 29.11.2008 passed in MVC No.1015/07 on the file of the Prl. Civil Judge [Sr. Dn.] and MACT., Gulbarga, partly allowing the claim petition and seeking set aside the impugned Judgment.

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IN MFA No.30721/09:

BETWEEN:

Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Division Office, Opp: KEB Main Road,
Near Mini Vidhana Soudha,
Gulbarga,
Rep. by its Divisional Manager:
M.A.Quayum. ... APPELLANT/S

[By Smt. Preeti S.Melkundhi, Adv.]

AND:

1. Krishnappa,
s/o. Appanappa,
age: 57 years,
Occ: Agriculture,
r/o. Jalakot,
Tq. Tuljapur,
Dist. Osmanabad,
Now at Pattan,
Gulbarga [Tq.]

2. Syed Jaheed,
s/o. Nooruddin,
age: 35 years,
Occ: Driver of vehicle
No.KA-32/A-4665,
r/o. Mominpura,
Chacha Hotel,
Gulbarga.

3. Mohd. Ismail,
s/o. Haji Shaikh Chandsab,
age: 40 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada,
Tq: Yadgir,
Dist: Gulbarga.

... RESPONDENT/S

[By Sri. K.A.Kalburgi, Adv. for R1.
Notice to R2 is dispensed with.
Notice to R3 is served.]

This MFA is filed under Section 173(1) of M.V. Act against the Judgment and Award dated 29.11.2008 passed in MVC No.1011/07 on the file of the Prl. Civil Judge [Sr. Dn.] and MACT., Gulbarga, partly allowing the claim petition and seeking set aside the impugned Judgment.

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IN MFA No.31678/09:

BETWEEN:

Krishnappa,
s/o. Appanappa,
age: 57 years,
Occ: Agriculture,
r/o. Jalakot,
Tq. Tuljapur,
Dist. Osmanabad,
Now at Pattan,
Gulbarga [Tq.].

... APPELLANT/S

[By Sri. K.A.Kalburgi, Adv.]

AND:

1. Syed Jaheed,
s/o. Nooroddin,
aged about 39 years,
Occ: Driver,
r/o. Mominapura,
Chacha hotel,
Gulbarga.
2. Mohd. Ismail,
s/o. Haji Shakh Chandbasha,
aged about 44 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada village,
Yadgir Tq.,
Gulbarga.

3. Oriental Insurance Company Ltd.,
Through its Divisional Manager,
Gulbarga. ... RESPONDENT/S

[By Sri. Shafeq Ahmed Quareshi, Adv. for R1.
Sri. Shivasharan Reddy, Adv. for R2.
Notice not ordered in r/o. R3.]

This MFA is filed under Section 173(1) of
M.V. Act against the Judgment and Award dated
29.11.2008 passed in MVC No.1010/07 on the file
of the Civil Judge [Sr. Dn.] and MACT.,
Gulbarga, partly allowing the claim petition and
seeking enhancement of the compensation.

* * *

IN MFA No.31679/09:

BETWEEN:

Krishnappa,
s/o. Appanappa,
age: 54 years,
Occ: Agriculture,
r/o. Jalakot,
Tq. Tuljapur,
Dist. Osmanabad,
Now at Pattan,
Gulbarga [Tq.]. ... APPELLANT/S

[By Sri. K.A.Kalburgi & Sri. Gourish
S.Khashampur, Advs.]

AND:

1. Syed Jaheed,
s/o. Nooroddin,
aged about 35 years,
Occ: Driver,
r/o. Mominapura,
ChaCha Hotel,
Gulbarga.
 2. Mohd. Ismail,
s/o. Haji Shakh Chandbasha,
aged about 41 years,
Occ: Owner of Vehicle,
r/o. H.No.2-1357,
Koliwada village, Yadgir Tq.,
Gulbarga.
 3. Oriental Insurance Company Ltd.,
Through its Divisional Manager,
Gulbarga. ... RESPONDENT/S
- [By Sri. Shafiq Ahmed Quereshi, Adv. for R1.
Sri. Shivasharan Reddy, Adv. for R2.
Smt. Preeti S.Melkundhi, Adv. for R3.]

This MFA is filed under Section 173(1) of M.V. Act against the Judgment and Award dated 29.11.2008 passed in MVC No.1011/07 on the file of the Prl. Civil Judge [Sr. Dn.] and MACT., Gulbarga, partly allowing the claim petition and seeking enhancement of compensation.

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IN MFA No.31686/09:

BETWEEN:

1. Shivaraj,
S/o. Virupakshappa Katthe,
Age: 47 years,

2. Rukmini Bai,
W/o. Virupakshappa Katthe,
Age: 33 years,
Occ: Household,

Both are r/o. Jalakota village,
Tq: Tuljapur,
Dist: Osmanabad,
Now at H.No.9-100,
Shahabazaar,
Dist: Gulbarga.

... APPELLANT/S

[By Sri. K.A.Kalburgi, Adv.]

AND:

1. Syed Jaheed,
S/o. Nooruddin,
Age: 35 years,
Occ: driver,
R/o. Mominpura,
Chacha Hotel
Gulbarga.

2. Mohd. Ismail,
S/o. Haji Shaikh Chandsab,
Age: 40 years,
Occ: Owner of Vehicle,
R/o. H.No.2-1357,

Koliwada,
Tq: Yadgir,
Dist: Gulbarga.

3. Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Gulbarga. ... RESPONDENT/S

[By Sri.Shafeeq Ahmed Quareshi, Adv. for R2
Sri.Shivasharana Reddy, Adv. for R2.
Smt.Preeti S.Melkundhi, Adv. for R3.]

This MFA is filed under Section 173(1) of
M.V. Act against the Judgment and Award dated
29.11.2008 passed in MVC No.1018/07 on the file
of the Civil Judge [Sr. Dn.] and MACT.,
Gulbarga, partly allowing the claim petition and
seeking enhancement of the compensation.

* * *

IN MFA No.31682/09:

BETWEEN:

1. Naganath,
s/o. Digamber Panchal,
age: 45 years,
Occ: Carpenter,
2. Amba Bai,
w/o. Naganath Panchal,
age: 41 years,
Occ: Household,

Both R1 & 2 are
r/o. Jalakota village,
Tq: Tuljapur,
Dist: Osmanabad,
Now at Pattan,
Dist: Gulbarga.

... APPELLANT/S

[By Sri. Gourish S.Khashampur, Adv.]

AND:

1. Syed Jaheed,
s/o. Nooruddin,
age: 36 years,
Occ: Driver,
r/o. Mominapura,
Chacha Hotel,
Gulbarga.
2. Mohd. Ismail,
s/o. Haji Shaikh Chandsab,
age: 41 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada village,
Tq: Yadgir,
Dist: Gulbarga.
3. Oriental Insurance Company Ltd.,
Through its Divisional Manager,
Gulbarga.

... RESPONDENT/S

[By Sri. Shafiq Ahmed Qureshi, Adv. for R1.
Sri. Shivasharan Reddy &
Sri. S.M.Kandkur, Adv. for R2.
Smt. Preeti S.Melkundhi, Adv. for R3.]

This MFA is filed under Section 173(1) of M.V. Act against the Judgment and Award dated 29.11.2008 passed in MVC No.1014/07 on the file of the Prl. Civil Judge [Sr. Dn.] and MACT., Gulbarga, partly allowing the claim petition and seeking enhancement of compensation.

* * *

IN MFA No.31680/09:

BETWEEN:

1. Sheetal Singh,
s/o. Vithal Singh,
age: 45 years,
2. Sundra Bai,
w/o. Sheetal Singh,
age: 40 years,
Occ: Household,

Both are r/o. Jalakota village,
Tq: Tuljapur,
Dist: Osmanabad,
Now at H.No.1-970,
Mahaveer Nagar,
Dist: Gulbarga.

... APPELLANT/S

[By Sri. K.A.Kalburgi, Adv.]

AND:

1. Syed Jaheed,
s/o. Nooruddin,

age: 35 years,
Occ: Driver of vehicle
r/o. Mominpura,
Chacha Hotel,
Gulbarga.

2. Mohd. Ismail,
s/o. Haji Shaikh Chandbasha,
age: 41 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada village,
Tq: Yadgir,
Dist: Gulbarga.

3. Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Gulbarga.

... RESPONDENT/S

[By Sri. Shafiq Ahmed Quareshi, Adv. for R1.
Sri. Shivasharan Reddy & Sri.S.M.Kandkur,
Advs. for R2.
Smt. Preeti S.Melkundhi, Adv. for R3.]

This MFA is filed under Section 173(1) of
M.V. Act against the Judgment and Award dated
29.11.2008 passed in MVC No.1012/07 on the file
of the Civil Judge [Sr. Dn.] and MACT.,
Gulbarga, partly allowing the claim petition and
seeking enhancement of the compensation.

* * *

IN MFA No.31684/09:

BETWEEN:

1. Sunanda Bai,
W/o. Iranna Rachoti,
Age: 38 years,
Occ: Household,
2. Gajanna,
S/o. Iranna Rachoti,
Age: 19 years,
Occ: Student,
3. Suvarna,
D/o. Iranna Rachoti,
Age: 17 Years,
Occ: Student,

A3 is since minor, under
Guardianship of her natural
Mother A1. R1 to 3 are
R/o. Jalakot,
Tq: Tuljapur,
Dist: Osmanabad,
Now at H.No.110/B,
Police Quarters,
Dist: Gulbarga.

... APPELLANT/S

[By Sri. K.A.Kalburgai, Adv.]

AND:

1. Syed Jaheed,
S/o. Nooruddin,
Age: 35 years,
Occ: driver,
R/o. Mominpura,
Chacha Hotel
Gulbarga.

2. Mohd. Ismail,
S/o. Haji Shaikh Chandsab,
Age: 40 years,
Occ: Owner of Vehicle,
R/o. H.No.2-1357,
Koliwada,
Tq: Yadgir,
Dist: Gulbarga.

3. Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Gulbarga.

... RESPONDENT/S

[By Sri. Shivasharana Reddy, Adv. for R2.
Smt. Preeti S.Melkundhi, Adv. for R3.
Sri. Shafiq Ahmed Qureshi, Adv. for R1.]

This MFA is filed under Section 173(1) of M.V. Act against the Judgment and Award dated 29.11.2008 passed in MVC No.1016/07 on the file of the Civil Judge [Sr. Dn.] and MACT., Gulbarga, partly allowing the claim petition and seeking enhancement of the compensation.

* * *

IN MFA No.31681/09:

BETWEEN:

1. Laxmibai,
w/o. Mahadeva Swamy,
age: 37 years,
Occ: Household,

2. Umesh,
s/o. Mahadeva Swamy,
age: 20 years,
Occ: Student,
3. Mahesh,
s/o. Mahadeva Swamy,
age: 14 years,
Occ: Student,
4. Santosh,
s/o. Mahadeva Swamy,
age: 14 years,
Occ: Student,
5. Mangesh,
s/o. Mahadeva Swamy,
age: 12 years,
Occ: Student,

A3 to 5 are since minors,
u/G. of their mother A1. A1 to
5 are r/o. Jalakot, Tq: Tuljapur,
Dist: Osmanabad,
No.2 at H.No.1-79/2, Hamalwadi,
Gulbarga.

... APPELLANT/S

[By Sri. Gourish S.Khashampur, Adv.]

AND:

1. Syed Jaheed,
s/o. Nooruddin,
age: 35 years,

Occ: Driver,
r/o. Mominapura,
Chacha Hotel,
Gulbarga.

2. Mohd. Ismail,
s/o. Haji Shaikh Chandsab,
age: 40 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada village,
Tq: Yadgir,
Dist: Gulbarga.

3. Oriental Insurance Company Ltd.,
Through its Divisional Manager,
Gulbarga. ... RESPONDENT/S

[By Sri. Shafiq Ahmed Qureshi, Adv. for R1.
Sri. Shivasharan Reddy, Adv. for R2.
Smt. Preeti S.Melkundhi, Adv. for R3.]

This MFA is filed under Section 173(1) of
M.V. Act against the Judgment and Award dated
29.11.2008 passed in MVC No.1013/07 on the file
of the Civil Judge [Sr. Dn.] and MACT.,
Gulbarga, partly allowing the claim petition and
seeking enhancement of the compensation.

* * *

IN MFA No.30714/09:

BETWEEN:

Oriental Insurance Co. Ltd.,
Through: Divisional Manager,

Division Office, Opp: KEB Main Road,
Near Mini Vidhana Soudha,
Gulbarga,
Rep. by its Divisional Manager:
M.A.Quayum.

... APPELLANT/S

[By Smt. Preeti S.Melkundhi, Adv.]

AND:

1. Shankar,
s/o. Srimanth Allisha,
age: 42 years,
Occ: Agriculture,
r/o. H.No.9-95, Shahbazaar,
Gulbarga.
2. Manananda Bai,
w/o. Shankar Allisha,
age: 40 years,
Occ: Household,
r/o. H.No.9-95, Shahbazaar,
Gulbarga.
3. Syed Jaheed,
s/o. Nooruddin,
age: 37 years,
Occ: Driver of vehicle
No.KA-32/A-4665,
r/o. Mominpura,
Chacha Hotel,
Gulbarga.

4. Mohd. Ismail,
s/o. Haji Shaikh Chandsab,
age: 42 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada,
Tq: Yadgir,
Dist: Gulbarga. ... RESPONDENT/S

[By Sri. K.A.Kalburgi & Sri. S.S.Patil, Advs.
for R1 & R2.
Sri. Shafiq Ahmed Quareshi, Adv. for R3.
Notice to R4 is served.]

This MFA is filed under Section 173(1) of
M.V. Act against the Judgment and Award dated
29.11.2008 passed in MVC No.1009/07 on the file
of the Prl. Civil Judge [Sr. Dn.] and MACT.,
Gulbarga, partly allowing the claim petition and
seeking set aside the impugned Judgment.

* * *

MFA No.31683/09:

BETWEEN:

1. Sunanda Bai,
W/o. Varadappa,
Age: 45 years,
Occ: Household,

2. Dhanraj,
S/o. Varadappa,
Age: 17 years,
Occ: Student,

3. Santosh,
S/o. Varadappa,
Age: 17 Years,
Occ: Student,

A3 is since minor, under
Guardianship of her natural
Mother A1. A1 to 3 are
R/o. Jalakot, Tq: Tuljapur,
Dist: Osmanabad,
Now at H.No.1-972,
Mahaveer Nagar,
Dist: Gulbarga.

... APPELLANT/S

[By Sri. K.A.Kalburgi, Adv.]

AND:

1. Syed Jaheed,
S/o. Nooruddin,
Age: 35 years,
Occ: driver,
R/o. Mominpura,
Chacha Hotel
Gulbarga.

2. Mohd. Ismail,
S/o. Haji Shaikh Chandsab,
Age: 40 years,
Occ: Owner of Vehicle,
R/o. H.No.2-1357,
Koliwada,
Tq: Yadgir,
Dist: Gulbarga.

3. Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Gulbarga. ... RESPONDENT/S

[By Sri.Shivasharana Reddy, Adv. for R2.
Smt.Preeti S.Melkundhi, Adv. for R3.
Sri.Shafeeq Ahmed Qureshi, Adv. for R1.]

This MFA is filed under Section 173(1) of
M.V. Act against the Judgment and Award dated
29.11.2008 passed in MVC No.1015/07 on the file
of the Prl.Civil Judge [Sr. Dn.] and MACT.,
Gulbarga, partly allowing the claim petition and
seeking enhancement of the compensation.

* * *

IN MFA No.32295/10:

BETWEEN:

1. Prema,
w/o. Sadu Kshirsagar,
age: 51 years,
Occ: Household,
2. Santosh,
s/o. Sadu Kshirsagar,
age: 33 years,
Occ: Private Work,
3. Sanjay,
s/o. Sadu Kshirsagar,
 - i) Sujata,
W/o. late Sanjay,

Age: 25 years,
Occ: Housewife,

ii) Preeti,
D/o. late Sanjay,
Age: 7 years,
Occ: Student,

iii) Sharati,
D/o. Late Sanjay,
Age: 5 years,
Occ: Student,

iv) Prathmesh,
S/o.Late Sanjaya,
Age: 3 years, minor,

4. Kiran,
s/o. Sadu Kshirsagar,
Since deceased, through LRs:
A1, who is already on record.

All are r/o. Jarakot,
Tq: Tuljapur,
Dist: Osmanabad,
Now at H.No.1/128, Shahabazaar,
Gulbarga. ... APPELLANT/S

[By Sri. K.A.Kalburgi, Adv.]

AND:

1. Syed Jaheed,
s/o. Nooruddin,
age: 37 years,

Occ: Driver of vehicle
No.KA-32/A-4665,
r/o. Mominapura,
Chacha Hotel,
Gulbarga.

2. Mohd. Ismail,
s/o. Haji Shaikh Chandsab,
age: 42 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada village,
Tq: Yadgir.

3. Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Gulbarga. ... RESPONDENT/S

[By. Sri. Shafiz Ahmed, Adv. for R1.
Smt. Preeti S.Melkundhi, Adv.for R3.
Sri. Shivasharan Reddy, Adv. for R2.]

This MFA is filed under Section 173(1) of
M.V. Act against the Judgment and Award dated
29.11.2008 passed in MVC No.1096/07 on the file
of the Prl. Civil Judge [Sr. Dn.] and MACT.,
Gulbarga, partly allowing the claim petition and
seeking for enhancement of the compensation.

* * *

IN MFA No.31677/09:

BETWEEN:

1. Shankar,
s/o. Srimanth Allisha,

age: 42 years,
Occ: Agriculture,

2. Mahananda Bai,
w/o. Shankar Allisha,
aged 40 years,
Occ: H. No.9-95,
Shahabazar,
Gulbarga. ... APPELLANT/S

[By Sri. K.A.Kalburgi, Adv.]

AND:

1. Syed Jaheed,
s/o. Nooroddin,
aged about 37 years,
Occ: Driver,
r/o. Mominapura,
ChaCha Hotel,
Gulbarga.
2. Mohd. Ismail,
s/o. Haji Shakh Chand Sab,
aged about 44 years,
Occ: Owner of Vehicle,
r/o. H.No.2-1357,
Koliwada village,
Yadgir Tq.,
Gulbarga.

3. Oriental Insurance Company Ltd.,
Through its Divisional Manager,
Gulbarga. ... RESPONDENT/S

[By Sri. Shafiq Ahmed Quereshi, Adv. for R1.
Sri. Shivasharan Reddy, Adv. for R2.]

This MFA is filed under Section 173(1) of
M.V. Act against the Judgment and Award dated
29.11.2008 passed in MVC No.1009/07 on the file
of the Civil Judge [Sr. Dn.] and MACT.,
Gulbarga, partly allowing the claim petition and
seeking enhancement of the compensation.

* * *

IN MFA No.31509/10:

BETWEEN:

Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Gulbarga Division,
Gulbarga. ... APPELLANT/S

[By Smt. Preeti S.Melkundhi, Adv.]

AND:

1. Pandit,
s/o. Kashinath,
age: 32 years,
Occ: driver,
r/o. Jalakot,

Tq: Tuljapur,
Dist: Osmanabad,
Now at H.No.9-129,
Shahabazar,
Gulbarga.

2. Syed Zaher,
s/o. Nooruddin,
age: 37 years,
Occ: Driver of vehicle
No.KA-32/A-4665,
r/o. Mominapura,
Chacha Hotel,
Gulbarga.

3. Mohd. Ismail,
s/o. Haji Shaikh Chandsab,
age: 42 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada village,
Tq: Yadgir,
Dist: Gulbarga.

... RESPONDENT/S

[By Sri. K.A.Kalburgi, Adv. for R1.
Sri. Shivasharan Reddy, Adv. for R2.
Sri. S.M.Kandkur, Adv. for R3.]

This MFA is filed under Section 173(1) of M.V. Act against the Judgment and Award dated 01.04.2010 passed in MVC No.270/08 on the file of the Prl. Civil Judge [Sr. Dn.] and MACT., Gulbarga, partly allowing the claim petition and seeking set aside the impugned Judgment.

* * *

IN MFA No.30863/11:

BETWEEN:

Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Gulbarga Division,
Gulbarga,
Rep. by its Sr. Divisional Manager,
Division Office,
Gulbarga. ... APPELLANT/S

[By Smt. Preeti S.Melkundhi, Adv.]

AND:

1. Virupashayya,
s/o. Mallayya,
age: 29 years,
Occ: Private Service,
r/o. Jalakot,
Tq: Tuljapur,
Dist: Osmanabad,
Now at H.No.9-129,
Shahabazar,
Gulbarga.
2. Syed Zaher,
s/o. Nooruddin,
age: 38 years,
Occ: Driver of vehicle
No.KA-32/A-4665,
r/o. Mominapura,
Chacha Hotel,
Gulbarga.

3. Mohd. Ismail,
s/o. Haji Shaikh Chandsab,
age: 43 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada village,
Tq: Yadgir,
Dist: Gulbarga. ... RESPONDENT/S

[By Sri. K.A.Kalburgi, Adv. for R1.
Sri. Shivasharan Reddy, Adv. for R2.
Sri. S.M.Kandkur, Adv. for R3.]

This MFA is filed under Section 173(1) of M.V. Act against the Judgment and Award dated 13.10.2010 passed in MVC No.321/08 on the file of the Prl. Civil Judge [Sr. Dn.] and MACT., Gulbarga, partly allowing the claim petition and seeking set aside the impugned Judgment.

* * *

IN MFA CROB. No.1555/13 [IN MFA No.30863/11]:

BETWEEN:

Virupashayya,
s/o. Mallayya,
age: 31 years,
Occ: Private Service,
r/o. Jalakot, Tq: Tuljapur,
Dist: Osmanabad,
Now at H.No.9-129, Shahabazar,
Gulbarga-585 101. ... CROSS-OBJECTOR/S

[Sri. K.A.Kalburgi, Adv. for R1.]

AND:

1. Oriental Insurance Co. Ltd.,
Through: Divisional Manager,
Gulbarga Division,
Gulbarga-585 101.
2. Syed Zaher,
s/o. Nooruddin,
age: 40 years,
Occ: Driver of lorry
No.KA-32/A-4665,
r/o. Mominapura,
Chacha Hotel,
Gulbarga-585 101.
3. Mohd. Ismail,
s/o. Haji Shaikh Chandsab,
age: 43 years,
Occ: Owner of vehicle,
r/o. H.No.2-1357, Koliwada village,
Tq: Yadgir-585 201. ... RESPONDENT/S

[By Smt. Preeti S.Melkundhi, Adv.
Sri. Shivasharan Reddy, Adv. for R2.
Sri. S.M.Kandkur, Adv. for R3.]

This MFA Crob. is filed under Order 41, Rule 22 of CPC against the Judgment and Award dated 13.10.2010 passed in MVC No.321/08 on the file of the Prl. Civil Judge [Sr. Dn.] and MACT., Gulbarga, partly allowing the claim petition and seeking enhancement of compensation.

These MFAs and MFA Crob. are coming on for Dictating Judgment, this Day the Court delivered the following:

JUDGMENT

While the insurer has preferred few appeals challenging the finding on negligence and also the quantum of compensation, the other appeals have been filed by the claimants seeking enhancement of compensation for the deaths that occurred and the injuries sustained, in the motor vehicle accident.

2. The facts reveal that on 23.08.2007 (1) Gurunath, (2) Lalita Bai, (3) Rekha, (4) Naganath, (5) Mahadev, (6) Ganesh, (7) Varadappa, (8) Iranna, (9) Shivanand, (10) Balaji and (11) Sadhu, are the persons, who died in the accident while Virupakshi and Pandit the injured were travelling in the tempo bearing reg. No.MH 25-B-7463 towards Gulbarga. When the

said tempo was near Bheemarayanagudi, at about 4.30 p.m. on the said day, the lorry bearing reg. No.KA 32-A-4665 came from the opposite direction, driven in rash and negligent manner and hit the tempo, thereby the aforesaid 11 persons died in the accident, whereas the two others suffered injuries. The dependants of the deceased filed M.V.C. Nos.1009 to 1018 and 1096/2007 claiming compensation for loss of dependency and other conventional heads, whereas in M.V.C. Nos.270/2008 and 321/2008, the injured claimed compensation for pain, suffering, mental agony, medical expenses, loss of income etc.

The insurer/respondents 1 and 2 appeared before the Tribunal and filed the written statement, denying the allegations contending that the accident was due to the negligence of the driver of tempo bearing reg. No.MH-25-7463 and further contended that the quantum of

compensation claimed is highly exorbitant, arbitrary and unreasonable.

All these petitions were clubbed by the Tribunal and common evidence was permitted [except M.V.C. Nos.270 and 321/2008]. On the basis of the rival contentions raised, the Tribunal framed the issues calling upon the claimants to establish the rash and negligent driving on the part of the driver of the lorry bearing reg. No.KA 32-A-4665, whereas the respondents were called upon to establish the negligence on the part of the driver of the tempo bearing reg. No.MH 25-B-7463. The other issues were relating to the quantum of compensation.

In the course of the enquiry, the claimants, and the eye-witnesses were examined as P.Ws.1 to 20. In their evidence, Exs.P1 to

51 were marked. No evidence was led on behalf of the respondents in the claim petition. But, they got marked the documents Exs.R1 and R2, the copy of the insurance policy and the driving licence with the consent of the parties. Evidence was also recorded in the injury cases as well.

The Tribunal after hearing the counsel and on appreciation of the evidence on record, held that the accident was solely due to the rash and negligent driving of the lorry bearing reg. No.KA-32-A-4665 and granted compensation of

Rs.3,46,000-00	in	M.V.C.	No.1009/07,
Rs.2,21,200-00	in	M.V.C.	No.1010/07,
Rs.2,16,200-00	in	M.V.C.	No.1011/07,
Rs.4,58,000-00	in	M.V.C.	No.1012/07,
Rs.6,92,000-00	in	M.V.C.	No.1013/07,
Rs.4,58,000-00	in	M.V.C.	No.1014/07,
Rs.3,99,000-00	in	M.V.C.	No.1015/07,
Rs.5,00,000-00	in	M.V.C.	No.1016/07,

Rs.4,95,000-00 in M.V.C. No.1017/07,
Rs.3,70,000-00 in M.V.C. No.1018/07,
Rs.8,55,064-00 in M.V.C. No.1096/07,
Rs.1,85,000 in M.V.C. No.321/2008, Rs.25,000-00
in M.V.C. No.270/2008. But, anyhow, in the
injury cases, the Tribunal held negligence to
the extent of 30% on the part of the driver of
the tempo and 70% on the part of the driver of
the lorry. Aggrieved by the Judgment and Award
and the finding of negligence and challenging
the quantum of compensation the insurer has
filed M.F.A. Nos.3014, 30720, 30721, 30722,
30718, 30723, 30717, 30726, 30724, 30725,
30719/2009, 30863/2011 and 31509/2010, whereas
the other appeals have been filed by the
claimants seeking enhancement of the
compensation and M.F.A. Cross-objections
No.1555/2013 is filed challenging the finding of
negligence to the extent of 30% on the part of

the driver of the tempo and seeking enhancement of compensation.

Learned counsel for both the parties have made available all the documents admitted in the evidence and the depositions recorded by the Tribunal. Hence, though the matters are listed for admission, with their consent, all these matters are taken up for final disposal by considering them together as they arise out of the same accident.

3. I have heard learned counsel for the parties.

4. The points that arises for my consideration are;

- 1) Whether it is proved that the accident occurred due to the rash and negligent driving of

the lorry bearing reg. No.KA-32/A-4665?

2) Whether there was any rash and negligent act on the part of the driver of the tempo bearing reg. No.MH-25/B-7463 in the occurrence of the accident?

3) Whether the quantum of compensation awarded by the Tribunal needs any variation? If so, to what extent?

5. Learned counsel for the insurer contended that the accident in question has occurred due to the negligence on the part of the driver of the tempo bearing reg. No.MH-25/B-7463 and the scrutiny of the complaint, the spot-mahazar and the sketch would substantiate the version of the insurer about the rash and negligent driving of the tempo. The counsel would submit that as regards the evidence of P.W.8 i.e., the eye-witness examined by the

claimants there was no opportunity to him to witness the accident as he was sitting on the seat at the back of the vehicle and the Tribunal committed an error in accepting his evidence. She also submits that the driver of the tempo was driving the vehicle for few days on the pilgrimage tour and as he was to return back to his native place, in hurry, he was driving the tempo in high speed and in rash and negligent manner and as there is a head on collision between the two vehicles, she would submit that the finding of the Tribunal attributing absolute negligence on the part of the driver of the lorry is both erroneous and illegal. It is also her contention that the Tribunal committed an error in assessing the income of the deceased persons and the injured and so also, erred in assessing the dependency and also the quantum of compensation. She further submits that the compensation awarded by the Tribunal is

unreasonable, excessive and needs reduction. She would further submit that to the extent of the negligence of the driver of the tempo, the compensation needs reduction. On these grounds, she has sought for setting aside the impugned Judgments and Awards.

On the other hand, learned counsel for the claimants submit that the accident was solely due to the negligence of the driver of the lorry and the Tribunal rightly gave a finding on it. He would further submit that the income assessed by the Tribunal is on the lower side, the multiplier needs variation by increasing it and he would also submit that the claimants are entitled to the enhanced compensation.

6. The scrutiny of the evidence brought on record through the documents and oral evidence reveals the manner in which the accident occurred. Ex.P4 is the sketch drawn by the

Investigating Officer and it reveals that the road at the place of the accident runs south-north. On the northern side, the road reaches Gulbarga, whereas on the southern side it reaches Shahapur. The lorry was proceeding towards Shahapur, to mean was proceeding in the southern direction, whereas the tempo in which the deceased and the injured were travelling was proceeding towards north. At the place of the accident the width of the road is 30 ft. wide. Both the vehicles stood at the distance of 16 ft. from the east and the spot of the accident is 14 ft. from the west. The circumstances brought on record in the form of the sketch supports the contents of the spot mahazar-Ex.P3. Looking to the contents of the sketch, both the vehicles were on the western portion of the road, whereas 16 ft. road on the eastern side was free.

7. As could be seen from the First Information Report at Ex.P7, Eranna, the complainant is an eye-witness, who was proceeding in the tempo and he stated that at about 4.30 p.m., on the date of the accident when they were proceeding on the road, the lorry came from the opposite direction in high speed in rash and negligent manner and hit the tempo and in the said incident, as many as 11 persons died and many others sustained injuries.

This complaint came to be registered by the Police in Crime No.56/2007 for the offence under sections 279, 337, 338, 304-A IPC and under Section 187 of the Motor Vehicles Act, 1988 as against the driver of the lorry. After the investigation, a charge-sheet was laid against the said driver and the copy of the charge-sheet is produced at Ex.P2.

P.W.18 is the eye-witness and he states in his evidence that while he was returning from Mantralaya, to go to their native place in the vehicle, it was moving slowly on the left side of the road and the lorry came in high speed, driven in a rash and negligent manner and hit their vehicle and the driver of the lorry after the accident ran away from the spot. Though he has been cross-examined at length, nothing is elicited to disbelieve his evidence. Merely because he was sitting in the back seat, when he was able to observe the road, his evidence cannot be discarded on that ground.

So, if this oral evidence is looked into in the context of the circumstances existed at the spot would indicate that the tempo was proceeding on the left side of the road and the lorry came from the opposite direction and having come to its wrong side, hit the tempo. If the driver of the lorry was to proceed on his

left portion of the road i.e., at least within 16 ft., the road on the eastern side while he was proceeding towards south, this accident would not have occurred.

As to why he left the road on the eastern portion and why he came towards his right i.e., the western portion is not explained either by examining the driver or by any other eye-witness or at least by examining another eye-witness and the cause remains unexplained.

As compared, the lorry is bigger and there is larger responsibility of its driver. In the absence of any explanation in deviating the vehicles towards right side and hitting the tempo which was on the left portion of the road, the rash and negligent act on the part of the driver of the lorry could be presumed.

8. Reliance could be placed on an unreported Judgment [DB] of this Court in M.F.A.

No.32143/11 dated 04.01.2013. When an eye-witness is examined by the claimants and his evidence explains the manner in which the accident occurred. The appellant was duty bound to explain the conduct of the driver of the lorry in deviating his vehicle towards his wrong side by examining the driver who had the personal knowledge of the accident. In the chief-examination of P.W.18, there is an assertion that the lorry was coming from the opposite direction in high speed and hit the tempo. As a result, many persons in the tempo died and sustained injuries and the circumstances brought on record supports his version of rash and negligent act on the lorry driver stands proved. Reliance could be placed on the decision of the Apex Court reported in AIR 2009 SC 1951 [Usha Rajkhowa and Ors. Vs. Paramount Industries and Ors.].

9. The learned counsel for the insurer contends that there is head on collision between two vehicles and the contributory negligence on the part of each of the drivers is 50%. The head on collision between the two vehicles is not exactly on the middle portion of the road nor on the eastern portion of the road on which the lorry was proceeding, but it was on the western portion, to mean on the right side of the lorry and left side of the road on which the tempo was to proceed. In the aforesaid circumstances, the decision relied upon by learned counsel for the insurer reported in II (2008) ACC 83 (SC) [Renukadevi H., etc. Vs. Bangalore Metropolitan Transport Corporation, etc.] is not applicable to the facts on hand. The overall scrutiny of the oral and the documentary evidence would clearly indicate that it was the driver of the lorry, who was negligent. Therefore, the Tribunal was

justified in answering the said issue in affirmative in death cases and committed an error in attributing negligence to an extent of 30% in injury cases.

10. In M.F.A. Nos.30714/2009 C/w. 31677/2009 [in M.V.C. No.1009/2007]: Claimant No.1 is examined as P.W.1. Both the claimants are the parents of Gurunath [deceased], who was bachelor. The deceased was 18 years at the time of the accident. Though he was said to be working in a kirana store, except the salary certificate-Ex.P8, no other evidence is brought on record. The accident is of the year 2007 and even for a labourer under the Workmen Compensation Act, the minimum wage was in between Rs.3,000-00 to 4,000-00 p.m.. Though the Tribunal has assessed the income of the deceased at Rs.3,000-00 p.m., it appears just and reasonable to assess his income at Rs.3,500-00 p.m.

As the claimants are his parents, 50% of the income has to be deducted towards the personal expenses of the deceased. Thereby, the contribution to the claimants is Rs.1,750-00 p.m. It is the age of the youngest of the parents, which has to be considered to chose the multiplier. The mother of the deceased i.e., claimant No.2 was aged 38 years old at the time of the accident and hence the multiplier would be 15.

In the aforesaid circumstances, the compensation towards loss of dependency works out to be:

$$\text{Rs.1,750} \times 12 \times 15 = \text{Rs.3,15,000-00}$$

The Tribunal has committed an error in choosing the multiplier of 14 and granting only a sum of Rs.10,000-00 towards the loss of love and affection and funeral expenses. It would be just and proper to grant a sum of Rs.50,000-00

on all other conventional heads. Thereby, the claimants are entitled to Rs.3,15,000-00 + Rs.50,000-00 = Rs.3,65,000-00 with interest at 6% p.a. from the date of the petition till its payment. Appeal of insurer has to be dismissed and that of the claimants has to be allowed in part.

11. In M.F.A. Nos.30720/2009 C/w. 31678/2009 [in M.V.C. No.1010/2007]: The claimant is examined as P.W.3. Deceased Lalita Bai was aged 50 years at the time of the accident and was the wife of the claimant. The Tribunal has assessed the income of the deceased at Rs.2,400-00 p.m. $1/3^{\text{rd}}$ of the income is deducted towards the personal expenses of the deceased. As the accident is of the year 2007, it would be just and proper to consider the services of the wife and her income has to be assessed at Rs.3,500-00 p.m. 50% of the income to be deducted towards her personal expenses.

Thereby, the claimant is entitled to Rs.1,750-00 p.m. In the aforesaid circumstances, the compensation towards loss of dependency would be:

$$\text{Rs.1,750} \times 12 \times 13 = \text{Rs.2,73,000-00}$$

A sum of Rs.40,000-00 is just and proper to award towards all other conventional heads. Hence, the net compensation payable to the claimant is Rs.2,73,000-00 + Rs.40,000-00 = Rs.3,13,000-00 with interest at 6% p.a. from the date of the petition till its payment. To this extent the Judgment and Award of the Tribunal will have to be modified.

12. In M.F.A. Nos.30721/2009 C/w. 31679/2009 [in M.V.C. No.1011/2007]: The claimant is the father-in-law of deceased Rekha. Rekha died in the aforesaid accident, so also her husband Shivanand. Therefore, the claimant has made a claim for compensation both as the

father-in-law of the deceased in M.V.C. No.1011/2007 and as father of deceased Shivanand in M.V.C. No.1017/2007. This Court has granted a sum of Rs.5,90,000-00 in M.F.A. No.31685/2009. It is relevant to note that a daughter-in-law serves the father-in-law occasionally. Major portion of her time is devoted to her husband and children. That apart, a father-in-law never be treated as a dependent on the income of his daughter-in-law. He is not a dependent on her income. Considering the extent of service that the daughter-in-law renders to her father-in-law, I think it would be just and proper to value the service at Rs.100-00 p.m. Thereby the service for one year could be Rs.1,200-00 p.a. adopting the multiplier of 11 as the claimant is 53 years old. The net compensation payable would be;

$$\text{Rs.1,200} \times 11 = \text{Rs.13,200/-}$$

In addition, the claimant is entitled to Rs.20,000-00 towards loss of love and affection and expenses for funeral. Therefore, the claimant is entitled to a total sum of Rs.33,200=00 with interest at 6% p.a. from the date of the petition till its payment. To this extent the Judgment and Award of the Tribunal will have to be modified. Therefore, the appeal in M.F.A. No.30721/09 is allowed in part, whereas the claimants appeal in M.F.A. 31679/09 is dismissed.

13. In M.F.A. Nos.30722/2009 C/w. 31680/2009 [in M.V.C. No.1012/2007]: The claimants are the parents of deceased Naganath, who was a bachelor. He was aged 24 years at the time of his death as per post- mortem report. He was working in kirana store and the salary certificate has been produced at Ex.P47. As per the salary certificate, he was getting a salary

of Rs.4,500-00 p.m. The Tribunal has considered his income at Rs.4,000-00 p.m. The mother being the youngest parent of the deceased as her age was 40 years, the multiplier of 15 has to be considered.

The salary certificate is not accepted by the Tribunal for the reason that no supporting evidence is produced. Anyhow, the Tribunal has accepted the income of the deceased at Rs.4,000-00 p.m. and it appears to be just and reasonable. The Tribunal has deducted 1/3rd towards the personal expenses of the deceased and that is not proper. The deduction towards the personal expenses would be 50% of the income. Therefore, towards loss of dependency the compensation would be;

$$\text{Rs.2,000} \times 12 \times 15 = \text{Rs.3,60,000-00}$$

A sum of Rs.50,000-00 would be just and reasonable on all conventional heads. Therefore, the claimants are entitled to Rs.3,60,000-00 + Rs.50,000-00 = Rs.4,10,000-00 with interest at 6% p.a. from the date of the petition till its payment. To this extent, the Judgment and Award of the Tribunal will have to be modified as stated above.

14. In M.F.A. Nos.30718/2009 C/w. 31681/2009 [in M.V.C. No.1013/2007]: The claimants are the wife and 4 children of deceased Mahadeva Swamy, who died in the accident. He was 48 years old at the time of the accident as per the post-mortem report. The 2nd claimant has attained the age of majority. The other children are minors. The deceased Mahadeva Swamy is said to be the owner and driver of the tempo involved in the accident. The 2nd claimant-Umesh was examined as P.W.4. The R.C. book has been produced at Ex.P16 and

the registration number of the vehicle is mentioned as MH-25/B-7463. The Tribunal has assessed the income of the deceased at Rs.6,000/- p.m. Deducting 1/3rd towards the personal expenses of the deceased, the net contribution per month is held to be Rs.4,000-00 p.m. As the deceased was aged 40 years at the time of the accident, the multiplier to be adopted is 15. As there are 5 claimants, the deduction has to be 1/4th. Thereby the net compensation payable towards loss of dependency would be;

$$\text{Rs.4,500} \times 12 \times 15 = 8,10,000-00$$

The Tribunal has granted Rs.20,000-00 towards all other conventional heads. It would be just and proper to grant a sum of Rs.50,000-00 towards all the conventional heads. Thereby, net compensation payable would be Rs.8,60,000-00 with interest at 6% p.a. from the

date of the petition till its payment. To this extent, the Judgment and Award of the Tribunal will have to be modified as stated above. The appeal of the claimant has to be allowed in part and that of the insurer is dismissed. Hence, MFA No.30718/2009 is dismissed and MFA No.31681/2009 is allowed in part.

15. In M.F.A. Nos.30723/2009 C/w. 31682/2009 [in M.V.C. No.1014/2007]: The claimants are the parents of deceased Ganesh, a bachelor, who was aged 19 years at the time of the accident. Transfer Certificate has been produced at Ex.P20 and it reveals that he was born on 13.08.1988 and he was 19 years old at the time of the accident.

Ex.P22 is the salary certificate. The deceased was working in a furniture shop and his salary is said to be Rs.4,500-00 p.m. The Tribunal has accepted his income at Rs.4,000-00

p.m. and this assessment appears to be just and proper as the claimants are his parents, the deduction towards the personal expenses of the deceased would be 50% of the income. Therefore, the Tribunal committed an error in deducting 1/3rd towards the personal expenses of the deceased. As claimant No.2-mother was aged 40 years, the multiplier to be adopted is 15. Hence the compensation towards the loss of dependency would be;

$$\text{Rs.2,000} \times 12 \times 15 = \text{Rs.3,60,000-00}$$

A sum of Rs.40,000-00 would be just and proper on all conventional heads. Therefore, the claimants are entitled to a total compensation of

$$\text{Rs.3,60,000-00} + \text{Rs.40,000-00} = \text{Rs.4,00,000-00}$$

with interest at 6% p.a. from the date of the petition till its payment. To this extent, the Judgment and Award of the Tribunal

will have to be modified as stated above. The appeal of the insurer is partly allowed and that of the claimants is dismissed.

16. In M.F.A. Nos.30717/2009 C/w. 31683/2009 [in M.V.C. No.1015/2007]: The claimants are the wife and 2 sons of deceased Varadappa, who died in the accident and he was 48 years old at the time of the accident as per the post-mortem report. He was a salesman in a kirana shop and his salary certificate has been produced at Ex.P25, which reveals that his salary at Rs.5,000-00 p.m. The Tribunal has not accepted the contents and assessed the income at Rs.4,000-00 p.m. Claimant No.2 is the son, aged 23 years old, whereas claimant No.3 is 17 years old. The deductions towards the personal expenses of the deceased would be $1/3^{\text{rd}}$ of his income. Taking into consideration the age of the deceased and the fact that he was working in a kirana shop, it would be just and proper to

consider his income at Rs.4,500-00 p.m. After deducting the personal expenses, his contribution to the family, would be Rs.3,000-00 p.m. The multiplier to be adopted is 14. Therefore, the compensation towards loss of dependency would be;

$$\text{Rs.3,000} \times 12 \times 14 = \text{Rs.4,58,000-00.}$$

A sum of Rs.40,000-00 is just and proper to award on all conventional heads. Hence, the claimants are entitled to a total compensation of Rs.4,98,000-00 with interest at 6% p.a. from the date of the petition till its payment. To this extent, the Judgment and Award of the Tribunal will have to be modified as stated above. The appeal of the insurer is dismissed and that of the claimants are allowed in part.

17. In M.F.A. Nos.30726/2009 C/w.
31684/2009 [in M.V.C. No.1016/2007]: The
claimants are wife, major son and daughter of

Iranna [deceased], who died in the accident. He was 35 years old at the time of his death as per the post-mortem report. He was a driver and the driving licence has been produced at Ex.P29. P.W.2 is the witness examined on behalf of the claimants. The Tribunal has assessed the income of the deceased at Rs.4,500-00 p.m.

As the deceased was a driver, it is a skilled employment and the income assessed by the Tribunal appears to be on the lower side. It is just and proper to assess his income at Rs.5,000-00 p.m. $\frac{1}{3}^{\text{rd}}$ of the income has to be deducted towards his personal expenses. Therefore, the contribution to the family would be Rs.3,334-00 p.m. The multiplier 14 has to be adopted. Therefore, the compensation towards loss of dependency would be:

$$\text{Rs.3,334} \times 12 \times 14 = \text{Rs.5,60,112-00}$$

Claimant No.1 is the wife of the deceased and was aged 30 years at the time of the accident. A sum of Rs.60,000-00 will be paid on all conventional heads. Therefore, the net compensation payable would be Rs.5,60,112-00 + Rs.60,000-00 = Rs.6,20,112-00 with interest at 6% p.a. from the date of the petition till its payment. To this extent, the Judgment and Award of the Tribunal will have to be modified as stated above. The appeal of the claimants is allowed in part by dismissing the appeal of the insurer. Hence, MFA No.30726/2009 is dismissed and MFA No.31684/2009 is allowed in part.

18. In M.F.A. Nos.30725/2009 C/w. 31686/2009 [in M.V.C. No.1018/2007]: The claimants herein are the parents of deceased Balaji, a tailor, who died in the accident at the age of 18 years as per the post-mortem report. The mother is aged 35 years and it is

the age of the youngest parents of which has to be considered to chose the multiplier. His income has been accepted by the Tribunal at Rs.3,000-00 p.m. Though the claimants have produced Ex.P40-salary certificate, wherein his salary is shown at Rs.4,000-00 p.m. P.W.16 is the father of the deceased, who has deposed before the Tribunal. Taking into consideration the income as assessed in the other matters, it would be just and proper to accept his income at Rs.4,000-00 p.m. As the claimants are parents, 50% of the income would be deducted towards the personal expenses. Therefore, the compensation towards the loss of dependency would be;

$$\text{Rs.2,000} \times 12 \times 16 = \text{Rs.3,84,000-00}$$

A sum of Rs.40,000-00 will have to be paid on all conventional heads. Therefore, the claimants are entitled to Rs.4,24,400-00 with interest at 6% p.a. from the date of the

petition till its payment. To this extent, the Judgment and Award of the Tribunal will have to be modified as stated above. The appeal of the insurer is dismissed by allowing the appeal of the claimants in part.

19. In M.F.A. Nos.30719/2009 C/w. 32295/2010 [in M.V.C. No.1096/2007]: The claimants are the wife and 3 major sons of deceased Sadhu. Claimant No.2-Santosh was 30 years old and was doing private work. He cannot be a dependent on the income of the deceased.

Claimant No.3-Sanjay, who was a student at the time when the claim petition was filed has died after disposal of the claim petition and before the appeal is filed. His wife and 3 minor children have been brought on record in this appeal. The perusal of the age of the daughter of claimant No.3-Sanjay reveals that she was 7 years old in the year 2010. To mean,

she was born at the time when the accident occurred. Though claimant No.3-Sanjay was married, this fact was not disclosed. His marriage would clearly indicate that he was employed. To show that he was a student at the time of the claimant petition, no documents have been produced.

So also, claimant No.4-Kiran was shown as a student and he was 26 years at the time when the claim petition was filed. He also died subsequent to the decision in the claim petition and before the appeal is filed. His legal representative is his mother-claimant No.1. To prove that he was a student at the time when the claim petition, no documents have been produced. Therefore, it is not appropriate to consider claimant Nos.2 to 4 as dependents of deceased-Sadhu, their father. Except for the compensation towards loss of love and affection,

claimant Nos.2 to 4 have no right to claim any compensation on the ground of loss of dependency. Therefore, the only claimant, who could claim compensation for loss of dependency would be claimant No.1. In the circumstances, 50% of the income has to be deducted towards the personal expenses of the deceased. The monthly salary as per the salary certificate produced at Ex.P44 reveals that after deducting the professional tax, the deceased was getting a sum of Rs.14,002-00 p.m. as salary. This could be rounded up to Rs.14,000-00. After deducting 50% of the income towards the personal expenses of the deceased, his contribution to claimant No.1 would be Rs.7,000-00 p.m. Therefore, the net loss of income would be;

$$\text{Rs.7,000} \times 12 \times 11 = \text{Rs.9,24,000-00}$$

Claimant No.1 is entitled to this amount. The claimants are entitled to Rs.50,000-00 towards

all conventional heads. The net compensation payable would be Rs.9,24,000-00 + Rs.50,000-00 = Rs.9,74,000-00. Therefore, the claimants are entitled to a total compensation of Rs.9,74,000-00 with interest at 6% p.a. from the date of the petition till its payment. To this extent, the Judgment and Award of the Tribunal will have to be modified. The appeal of the insurer is dismissed by allowing the claim of the claimants in part. Hence, the appeal of the insurance company in M.F.A. No.30719/09 is dismissed, whereas the appeal of the claimants in M.F.A. No.32295/2010 is allowed in part.

20. In M.F.A Nos.30724/09 C/w. 31685/09 [MVC No.1017/07]: The claimants herein are the 2nd wife and father of deceased. The deceased was 37 years old at the time of his death as per the school certificate produced. Though it was claimed that he was doing photograph business,

no documents have been produced. The Tribunal has assessed his income at Rs.4,000-00 p.m.

Learned counsel for the insurer submits that a second wife, in law cannot claim compensation for the death of her husband. On this aspect of the matter, she placed reliance on the decision of this Court reported in ILR 2010 Kar. 804 [Annappa Naika and Another Vs. Chand Basha and Others.]; wherein this Court held that the second wife cannot claim compensation, in law. But, anyhow, as held by the Apex Court in the decision reported in (2014)1 Supreme Court Cases 188 [Badshah Vs. Urmila Badshah Godse and another]; wherein the Apex Court took into consideration the second marriage performed in the lifetime of the first wife. In the case on hand, it is not in dispute that from the first wife the deceased Shivanand did not get children and he married claimant No.1. The Apex Court held that a second wife

can maintain a claim under Section 125 Cr.P.C. for maintenance. When a person could claim maintenance, during the lifetime of her husband, there is no reason to discard her claim for compensation for the reason that of the deceased was alive, the second claimant could have maintained a claim for maintenance. Therefore, she has to be considered as a dependent.

21. In M.F.A. No.30863/2011 C/w. M.F.A
Crob. No.1555/2013 [in M.V.C. No.321/2008]:

The claimant has suffered fracture of maxillae and spinous process of 2nd cervical vertebrae. P.W.2 is the doctor, who has issued the disability certificate-Ex.P23. The claimant approached the doctor to assess the disability on 16.12.2010 i.e., during the pendency of the proceedings. Collecting evidence during the pendency of the proceedings has to be with the permission of the Court. No such permission was

obtained. Claimant ought to have filed an application to appoint a doctor as a Commissioner to examine the disability and to submit a report. Unfortunately, no such steps were taken. P.W.2 is not the doctor, who treated the claimant. Therefore, his evidence assessing the disability at 40% cannot be accepted. The Tribunal has assessed the permanent disability at 25% and granted a sum of Rs.1,53,000-00 assessing the income of the deceased at Rs.3,000-00 p.m. But, I think that the Tribunal ignored the fact that P.W.2 is not treated doctor, hence the permanent disability is taken only at 20%. The accident is of the year 2007, the income has to be considered at Rs.4,000-00 p.m. With the disability at 20% of the whole body and income at Rs.4,000-00 p.m., the loss of future earning would be;

$$\frac{\text{Rs.4,000} \times 12 \times 17 \times 20}{100} = \text{Rs.1,63,200-00}$$

The Tribunal has granted a sum of Rs.15,000-00 towards pain and suffering and I think it is just and proper to grant Rs.20,000-00 on this head. On the basis of the bills, a sum of Rs.5,000-00 has been granted towards medical expenses. No grounds have been made to enhance the same. The Tribunal has granted a sum of Rs.10,000-00 towards loss of amenities and it is just and proper. Towards conveyance and special diet, a sum of Rs.2,000-00 has been granted and I think it would be Rs.5,000-00. Thereby, the net compensation payable would be Rs.1,63,200-00 + 40,000-00 = Rs.2,03,200-00. The claimant is entitled to the aforesaid sum with interest at 6% p.a. As it has been held that there is no negligence on the part of the driver of the tempo bearing reg. No.MH-25/B-7463, it is the Oriental Insurance Company Limited i.e., the appellant in M.F.A. No.30863/11 [respondent No.3 before the

Tribunal] has to pay the compensation with interest. Therefore, M.F.A. No.30863/2011 is dismissed, whereas M.F.A. Crob. No.1555/2013 is allowed in part.

22. In M.F.A. No.31509/2010 [in M.V.C. No.270/2008]: As it has been held that it is the driver of the lorry who was rash and negligent and not the driver of the tempo. Hence, the appeal deserves to be rejected.

Though the Tribunal has assessed the income at Rs.4,000-00 p.m., it would be just and proper to consider the income of the deceased at Rs.4,500-00 p.m. as the accident is of the year 2007 and generally, even for a labourer, the income is assessed at Rs.4,500-00 p.m. So far as the personal deductions are concerned, it is relevant to note that claimant No.2-father though could have the benefit of the income of the deceased in his lifetime, as the 1st

claimant is the second wife of Shivanand [deceased], it would be proper to consider deductions at $1/3^{\text{rd}}$ of the income. Thereby, the net compensation payable would be;

$$\text{Rs.}3,000 \times 12 \times 15 = 5,40,000-00$$

A sum of Rs.50,000-00 is payable towards the compensation on all conventional heads. The claimants are entitled to Rs.5,40,000-00 + Rs.50,000-00 = Rs.5,90,000-00 with interest at 6% p.a. from the date of the petition till its payment. Therefore, M.F.A. No.30724/2009 is dismissed and M.F.A. No.31685/2009 is partly allowed. Out of the compensation awarded, a sum of Rs.3,00,000/- shall be paid to claimant No.1. Out of this amount, a sum of Rs.2,00,000/- shall be deposited in her name in any nationalized Bank for a period of five years renewable for the same period again after five years. She is entitled to withdraw the interest periodically.

The remaining amount of compensation shall be paid to claimant No.2.

For the aforesaid reasons, MFA Nos.31714/09, 30720/2009, 31679/09, 31680/09, 30718/09, 31682/09, 30717/09, 30726/09, 30725/09, 30719/09, 30863/11, 31509/10 and 30724/09 are dismissed. M.F.A. Nos.31677/09, 31678/09, 30721/09, 30722/09, 31681/09, 30723/09, 31683/09, 31684/09, 31686/09, 32295/10, 31685/09 and M.F.A. Crob.No.1555/13 are allowed in part. The impugned judgments and awards are modified.

The appellants in MFA No.31677/2009 are entitled to a total sum of Rs.3,65,000/- with interest @ 6% p.a. from the date of the petition till its payment. The amount shall be shared equally by the parties. Out of the compensation payable to claimant No.2, a sum of Rs.1,00,000/-

shall be deposited in her name in any nationalized Bank for a period of five years.

The appellant in MFA No.31678/2009 is entitled to a total sum of Rs.3,13,000/- with interest @ 6% p.a. from the date of the petition till its payment. Out of this amount, a sum of Rs.1,00,000/- shall be deposited in the name of the appellant in any nationalized Bank for a period of five years.

MFA No.30721/2009 is allowed in part. The claimant is entitled to a total sum of Rs.33,200/- with interest @ 6% p.a. from the date of the petition till its payment.

MFA No.30722/2009 is allowed in part. The claimants are entitled to a total sum of Rs.4,10,200/- with interest @ 6% p.a. from the date of the petition till its payment. The amount shall be shared equally amongst the

claimants and out the compensation payable to claimant No.2, a sum of Rs.1,00,000/- shall be deposited in her name in any nationalized Bank for a period of five years.

The appellants in MFA No.31681/2009 are entitled to a total sum of Rs.8,60,000/- with interest @ 6% p.a. from the date of the petition till its payment. Out of the compensation awarded, claimant No.1 be paid a sum of Rs.2,00,000/- and the remaining amount shall be shared equally by claimants 2 to 5. The share of the minors i.e., claimant Nos.3 to 5 shall be deposited in their names in any nationalized Bank till they attain the age of majority. From the amount payable to claimant No.1, a sum of Rs.1,00,000/- shall be deposited in her name for a period of five years in any nationalized Bank. From the amount payable to claimant No.2 who had attained the age of majority, a sum of

Rs.1,00,000/- shall be deposited in his name for a period of five years in any nationalized bank. The excess if any shall be paid to the parties.

MFA No.30723/2009 is allowed in part. The claimants are entitled to a total sum of Rs.4,00,000/- with interest @ 6% p.a. from the date of the petition till its payment. The amount shall be shared equally by the claimants. Out of the compensation payable to claimant No.2, a sum of Rs.1,00,000/- shall be deposited in her name in any nationalized Bank for a period of five years.

The appellants in MFA No.31683/2009 are entitled to a total sum of Rs.4,98,000/- with interest @ 6% p.a. from the date of the petition till its payment. Out of the compensation awarded, a sum of Rs.1,75,000/- is payable to claimant No.1. Out of this amount, a sum of Rs.1,00,000/- shall be deposited in her name in

any nationalized Bank for a period of five years. The remaining amount of compensation shall be shared equally by claimants 2 and 3. Out of the compensation payable to them, a sum of Rs.75,000/- each shall be deposited in their names in any nationalized Bank for a period of five years. The excess amount shall be paid to the parties.

The appellants in MFA No.31684/2009 are entitled to a total sum of Rs.6,20,112/- with interest @ 6% p.a. from the date of the petition till its payment. Out of the compensation awarded, Rs.2,20,112/- is payable to claimant No.1, the wife of the deceased. Out of this amount, Rs.1,50,000/- shall be deposited in her name in any nationalized bank for a period of five years. The remaining amount of compensation shall be shared equally by claimant Nos.2 and 3. Out of their share, Rs.1,00,000/-

each shall be deposited in their names in any nationalized bank for a period of five years and the excess amount shall be paid to the parties.

The appellants in MFA No.31686/2009 are entitled to a total sum of Rs.4,24,000/- with interest @ 6% p.a. from the date of the petition till its payment. The amount shall be shared equally by the claimants. Out of the compensation payable to claimant No.2, a sum of Rs.1,00,000/- shall be deposited in her name in any nationalized Bank for a period of five years.

The appellants in MFA No.32295/2010 are entitled to a total sum of Rs.9,74,000/- with interest @ 6% p.a. from the date of the petition till its payment. Out of the compensation awarded, a sum of Rs.10,000-00 shall be paid to claimant No.2 and a sum of Rs.30,00-00 shall be distributed equally amongst the legal

representatives of claimant No.3 and the remaining amount shall be paid to claimant No.1. Out of the compensation payable to claimant No.1, a sum of Rs.3,00,000/- shall be deposited in her name in any nationalized Bank for a period of five years and the excess amount shall be paid to her.

The cross objector in MFA Crob No.1555/2013 is entitled to a total sum of Rs.2,03,200/- with interest @ 6% p.a. from the date of the petition till its payment. Out of this amount, a sum of Rs.50,000/- shall be deposited in the name of the cross objector in any nationalized Bank for a period of five years.

The appellants in MFA No.31685/2009 are entitled to a total sum of Rs.5,90,000/- with interest @ 6% p.a. from the date of the petition till its payment. Out of the compensation awarded, a sum of Rs.3,00,000/- shall be paid to

claimant No.1. Out of this amount, a sum of Rs.2,00,000/- shall be deposited in her name in any nationalized Bank for a period of five years renewable for the same period again after five years. She is entitled to withdraw the interest periodically. The remaining amount of compensation shall be paid to claimant No.2.

The Oriental insurance company shall pay the amount awarded with interest.

Misc.Cvl.No.154175/2010 filed for stay in MFA No.31509/2010 and Misc.Cvl.No.152191/2011 filed for stay in MFA No.30863/2011 do not survive for consideration and hence rejected.

Sd/-
JUDGE

Ksm*