

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

DATED THIS THE 27TH DAY OF FEBRUARY 2015

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP D. WAINGANKAR

M. F. A. No.20476/2012 (MV)

C/W

M.F.A.No.20477/2012 (MV)

M.F.A.No.20478/2012 (MV)

M.F.A.No.20479/2012 (MV)

IN MFA NO 20476/2012(MV)

BETWEEN

UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE, DHARWAD,
ANKOLA ARCADE, 1ST FLOOR,
OPP. KALABHAVAN, P.B. ROAD,
DHARWAD. REP. BY ITS
DIVISIONAL MANAGER.

... APPELLANT

(BY SRI. NAGANGOUDA R KUPPELUR, ADV.,)

AND

1. BHARMAPPA
S/O. FAKKIRAPPA BULLA
AGE: 54 YEARS, OCC: NIL
R/O. NARGUND, TQ: NARGUND, DIST: GADAG.
2. YALLAWWA
W/O. BHARMAPPA BULLA,
AGE: 51 YEARS, OCC: HOUSEHOLD WORK,
R/O. NARGUND, TQ: NARGUND, DIST: GADAG.

3. RENAVVA
 D/O. BHARMAPPA BULLA
 AGE: 25 YEARS, OCC: HOUSEHOLD WORK,
 R/O. NARGUND, TQ: NARGUND, DIST: GADAG.

4. GURUPADAPPA
 S/O. SOMAPPA ANGADI
 AGE:MAJOR, OCC: BUSINESS,
 R/O. C/O. KADAPATTI,
 BASAVESHAR TRADERS MAIN ROAD,
 (OWNER OF LORRY BEARING NO.
 KA-25/6185)

... RESPONDENTS

(BY SRI. L S HOTTIN, ADV., FOR R1-R3;
 SRI. U.G. KATTIMANI, ADV., FOR R4)

MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED: 12/10/2011 PASSED IN MVC NO.75/1999 ON THE FILE OF THE III ADDL. SENIOR CIVIL JUDGE AND MEMBER, MACT, DHARWAD, AWARDING THE COMPENSATION OF RS.3,65,500/- WITH INTEREST AT THE RATE OF 6% P.A. FROM THE DATE OF PETITION TILL ITS REALISATION.

IN M.F.A.NO.20477/2012 (MV)

BETWEEN

UNITED INDIA INSURANCE CO. LTD.,
 DIVISIONAL OFFICE, DHARWAD,
 ANKOLA ARCADE, 1ST FLOOR,
 OPP. KALABHAVAN, P.B. ROAD,
 DHARWAD. REP. BY ITS
 DIVISIONAL MANAGER.

... APPELLANT

(BY SRI. NAGANGOUDA R KUPPELUR, ADV.,)

AND

1. RAMESH
 S/O. HANUMAPPA JAGTAP
 AGE: 31 YEARS, OCC: HAMALI

R/O. NARGUND, TQ: NARGUND,
DIST: GADAG.

2. GURUPADAPPA
S/O. SANGAPPA ANGADI
AGE:MAJOR, OCC: BUSINESS,
R/O. C/O. KADAPATTI,
BASAVESHAR TRADERS MAIN ROAD,
NARGUND, TQ: NARGUND,
(OWNER OF LORRY BEARING NO.
KA-25/6185)

... RESPONDENTS

(BY SRI.L S HOTTIN, ADV., FOR R1;
SRI. U.G. KATTIMANI, ADV., FOR R2)

MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED: 12/10/2011 PASSED IN MVC NO.72/1999 ON THE FILE OF THE III ADDL. SENIOR CIVIL JUDGE AND MEMBER, MACT, DHARWAD, AWARDING THE COMPENSATION OF RS.30,000/- WITH INTEREST AT THE RATE OF 6% P.A. FROM THE DATE OF PETITION TILL ITS REALISATION.

IN M.F.A.NO.20478/2012 (MV)

BETWEEN

UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE, DHARWAD,
ANKOLA ARCADE, 1ST FLOOR,
OPP. KALABHAVAN, P.B. ROAD,
DHARWAD. REP. BY ITS
DIVISIONAL MANAGER.

... APPELLANT

(BY SRI. NAGANGOUDA R KUPPELUR, ADV.,)

AND

1. SANNASIDDAPPA @ SIDDAPPA
S/O. SHANKRAPPA MANIK
AGE: MAJOR, OCC: HAMALI,
R/O. NARGUND, TQ: NARGUND,
DIST: GADAG.
2. GURUPADAPPA
S/O. SOMAPPA ANGADI
AGE:MAJOR, OCC: BUSINESS,
R/O. C/O. KADAPATTI,
BASAVESHAR TRADERS MAIN ROAD,
NARGUND, TQ: NARGUND,
(OWNER OF LORRY BEARING NO.
KA-25/6185)

... RESPONDENTS

(BY SRI. L S HOTTIN, ADV., FOR R1;
SRI. U.G. KATTIMANI, ADV., FOR R2)

MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED: 12/10/2011 PASSED IN MVC NO.73/1999 ON THE FILE OF THE III ADDL. SENIOR CIVIL JUDGE AND MEMBER, MACT, DHARWAD, AWARDING THE COMPENSATION OF RS.1,46,500/- WITH INTEREST AT THE RATE OF 6% P.A. FROM THE DATE OF PETITION TILL ITS REALISATION.

IN M.F.A.NO.20479/2012(MV)BETWEEN

UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE, DHARWAD,
ANKOLA ARCADE, 1ST FLOOR,
OPP. KALABHAVAN, P.B. ROAD,
DHARWAD. REP. BY ITS
DIVISIONAL MANAGER.

... APPELLANT

(BY SRI. NAGANGOUDA R KUPPELUR, ADV.,)

AND

1. PARVATEVVA
W/O. SIDDAPPA MANIK
AGE: 51 YEARS, OCC: HOUSEHOLD WORK,
R/O. NARGUND, TQ: NARGUND, DIST: GADAG.
2. BASAVARAJ @ BASAVANTAPPA
S/O. SIDDAPPA MANIK
AGE: 32 YEARS, OCC: NIL
R/O. NARGUND, TQ: NARGUND,
DIST: GADAG.
3. MANJULA
D/O. SIDDAPPA MANIK
AGE: 31 YEARS, OCC: HOUSEHOLD WORK,
R/O. NARGUND, TQ: NARGUND,
DIST: GADAG.
4. GURUPADAPPA
S/O. SANGAPPA ANGADI
AGE: MAJOR, OCC: BUSINESS,
R/O. C/O. KADAPATTI,
BASAVESHAR TRADERS MAIN ROAD,
NARGUND, TQ: NARGUND,
(OWNER OF LORRY BEARING NO.KA-25/6185)

... RESPONDENTS

(BY SRI. L S HOTTIN, ADV., FOR R1 TO R3;
SRI. U.G. KATTIMANI, ADV., FOR R4)

MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED: 12/10/2011 PASSED IN
MVC NO.74/1999 ON THE FILE OF THE III ADDL. SENIOR
CIVIL JUDGE AND MEMBER, MACT, DHARWAD, AWARDING
THE COMPENSATION OF RS.3,87,500/- WITH INTEREST AT
THE RATE OF 6% P.A. FROM THE DATE OF PETITION TILL
ITS REALISATION.

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

JUDGMENT

All these appeals under Section 173(!) of M.V. Act are filed by the appellant-United India Insurance Co. Ltd., challenging the liability to pay the compensation fastened on it.

2. Brief facts which gave rise to these appeals are as under:

On 18.05.1998 at about 7.45 p.m. one Ramesh, Sannasiddappa, Siddappa and Yellappa and others were returning on a lorry bearing registration No.KA-25/6135 on P.B. Road. At that time, Tata 407 bearing registration No.KA-25/6045 came in a rash and negligent manner and dashed against the lorry. As a result of the terrific impact, Ramesh and Sannasiddappa sustained grievous injuries whereas Siddappa and Yellappa died in the accident. The claim petitions came to be filed in MVC Nos.72/1999, 73/1999, 74/1999 and 75/1999 under Section 166 of M.V. Act against both the vehicles involved in the accident. Claim petitions were opposed by the insurer of

both the vehicles involved in the accident mainly on the ground that the injured and deceased-Yellappa and Siddappa were travelling in the said lorry as gratuitous passengers as they were returning after attending a marriage. The claim petitions came up for consideration before the Tribunal. The Tribunal on appreciation of the evidence recorded a finding that the accident occurred on account of the negligence of the drivers of both the vehicles and thereby directed owner and insurer of the both the vehicles to satisfy 50% each the compensation awarded to the respective claimants.

3. The appellant-United India Insurance Co. Ltd., is aggrieved by 50% liability fastened by the Tribunal since they were travelling in the lorry as gratuitous passengers and as such the insurance company is not liable to indemnify the owner of the lorry.

4. I have heard both the learned counsel appearing for the appellant-United India Insurance Co. Ltd., and the respondents-claimants.

5. During the course of the arguments, learned counsel for respondents/claimants has submitted that arising out of the very same accident two other claim petitions were filed in MVC Nos.81/2001 and 82/2001. The said claim petitions were also allowed directing the United India Insurance Company Ltd., to deposit 50% of the award amount. Accordingly, the United India Insurance Company deposited 50% of the compensation amount of their share in both those cases. Learned counsel also placed on record the certified copy of the Lok Adalath award in MFA No.4443/2002 arising out of the judgment and award in MVC Nos.81/2001. It is evident from the said award that the appellant-United India Insurance Company entered into compromise wherein the compensation came to be enhanced from Rs.93,000/- to Rs.2,32,000/-.

6. Since appellant-United India Insurance Company ltd., has already satisfied the award in another two claims arising out of the very same accident, it is not

open for them to challenge the award passed in MVC Nos.72/1999, 73/1999, 74/1999 and 75/1999 contending that the claimants were proceeding in a lorry as gratuitous passengers and therefore, the Insurance Company is not liable to indemnify the owner. As such, I pass the following

ORDER

M.F.A.Nos.20476/2012, 20477/2012, 20478/2012 and 20479/2012 are dismissed. The judgment and award passed in MVC Nos.72/1999, 73/1999, 74/1999 and 75/1999 on the file of the III Addl. Senior Civil Judge and Member, MACT, Dharwad is hereby confirmed.

The amount in deposit in all the appeals shall be transmitted to the Tribunal.

**Sd/-
JUDGE**

PMR