

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST 2015

BEFORE

THE HON'BLE MR. JUSTICE S.N.SATYANARAYANA

M.F.A. NO.3550/2012 C/W
M.F.A. NO.3551/2012 (MV)

IN M.F.A.NO.3550/2012:
BETWEEN:

UNITED INDIA INSURANCE CO., LTD.,
BRANCH OFFICE,

THROUGH ITS REGIONAL OFFICE,
5TH & 6TH FLOORS,
KRISHIBHAVAN,
HUDSON CIRCLE,
BANGALORE – 560 001. ... APPELLANT

REP. BY ITS MANAGER

(BY SRI. JANARDHAN REDDY, ADV.,)

AND:

1. SRI T. RAMAIAH,
S/O SRI LATE THIRUNALLAPPA,
AGED ABOUT 54 YEARS,
R/AT NEHRUJI COLONY,
GOWRIBIDANUR,
KOLAR DISTRICT,
NOW CHIKKABALLAPURA DISTRICT,
2. SRI MAHAPEER,
S/O SRI ALI SAAB,
MAJOR IN AGE,

R/AT SLUM AREA,
GOWRIBIDANUR-561 208.

3. SRI SUBAN SAB,
S/O SRI HUSSAIN SAN,
MAJOR IN AGE,
R/AT NEW PET,
GOWRIBIDANUR TOWN,
KOLAR DISTRICT. ... RESPONDENTS

(BY SMT. H.M. BHANU FOR
SRI.M.R. KUMARASWAMY, ADV., FOR R-1;
NOTICE TO R-2 IS HELD SUFFICIENT
VIDE COURT ORDER DATED 5/8/2015.)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 30.09.2008 PASSED IN MVC NO.905/2006 ON THE FILE OF THE VII ADDITIONAL JUDGE, MEMBER, MACT, COURT OF SMALL CAUSES, BANGALORE, AWARDING A COMPENSATION OF RS. 1,23,000/- WITH INTEREST @ 6% P.A. FROM THE DATE OF PETITION TILL DEPOSIT.

IN M.F.A. NO.3551/2012:
BETWEEN:

UNITED INDIA INSURANCE CO., LTD.,
BRANCH OFFICE,

THROUGH ITS REGIONAL OFFICE,
5TH & 6TH FLOORS,
KRISHIBHAVAN,
HUDSON CIRCLE,
BANGALORE – 560 001. ... APPELLANT

REP. BY ITS MANAGER

(BY SRI. JANARDHAN REDDY, ADV.,)

AND:

1. SMT. H.S. LALITHAMMA,
W/O SRI AMRUTHESH,
AGED ABOUT 50 YEARS,
R/AT NO.21, MODEL HOUSE,
KUMARASWAMY LAYOUT,
BANGALORE – 560 002.

2. SRI MAHAPEER,
S/O SRI ALI SAAB,
MAJOR IN AGE,
R/AT SLUM AREA,
GOWRIBIDANUR – 561 208.RESPONDENTS

(BY SMT.H.M.BHANU FOR SRI.M.R.KUMARSWAMY, ADVS.,
FOR R-1; NOTICE TO R-2 IS HELD SUFFICIENT VIDE
COURT ORDER DATED 31-08-2015 AND R-3 IS SERVED &
UNREPRESENTED)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED:30.9.2008 PASSED
IN MVC NO. 907/2006 ON THE FILE OF VII ADDITIONAL
JUDGE, COURT OF SMALL CAUSES, MEMBER, MACT,
BANGALORE, AWARDING A COMPENSATION OF
RS.1,55,600/- WITH INTEREST @ 7.5% P.A. FROM THE
DATE OF PETITION TILL DEPOSIT.

THESE MFAs COMING ON FOR *FURTHER ORDERS*
THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

The present appeal is by the insurer of Maruthi
van bearing registration No. CHQ 7666 which is
involved in an accident dated 26.12.2005 wherein 3

persons who were inmates of the aforesaid Maruthivan are injured. Three claim petitions were filed by them in MVC.Nos. 903, 905 and 907 of 2006.

2. It is stated that MVC.No.903/06 was allowed with an observation that the insurer to pay the compensation and to recover the same from the owner. The said order was subject matter of challenge in MFA.No.5598/08 wherein by judgment dated 27.7.2012, co-ordinate bench of this Court has set aside the judgment dated 20.11.2007 passed by the Tribunal in MVC.No.903/06 and has absolved the insurer from the liability to pay compensation, on the ground that, the insured had not paid premium.

3. It is seen that the other two petitions in MVC.Nos.905 & 907 of 2006 were disposed of by the judgment dated 30.9.2008 initially absolving the liability of the insurer. However, subsequently it is

stated that by filing an application liability was shifted on the appellant which was challenged by the appellant herein by filing Cross Objection Nos.106/10 and 105/10 in MFA.No.9040/08 and MFA.No.8548/08 which were filed by the claimants in MVC.Nos.905 and 907 of 2006 seeking enhancement of compensation. It is stated that the aforesaid two appeals and cross objections are disposed of by judgment dated 27.3.2012 by co-ordinate bench of this Court. While doing so, liberty was reserved to file appeal independently and to seek for modification of the order.

4. Accordingly, in view of the decision already taken by the co-ordinate bench of this Court with reference to the claim arising in the very same accident in MVC.No.903/06, this Court cannot have a different view of the fact that the judgment dated

27.7.2010 passed in MFA.No.5598/12 being just and proper, both on law and as well as facts, the present appeals in MFA.Nos.3550 and 3551 of 2012 are also allowed on similar lines by exonerating the liability of the insurer - appellant to pay compensation by shifting the liability to pay compensation on the owner of the offending Maruthi van bearing registration No.CHQ 7666.

5. Accordingly, these two appeals are allowed. In view of the appeals being allowed, the amount in deposit in both the appeals is directed to be refunded to the appellant.

Sd/-
JUDGE

RS/*
CT-SM