

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

DATED THIS THE 29TH DAY OF JULY, 2022

BEFORE

THE HON'BLE MR.JUSTICE M.G.S.KAMAL

MFA No.201912/2015 (MV)

C/W

**MFA NO.200788/2015, MFA NO.200789/2015,
MFA NO.200791/2015, MFA NO.200792/2015,
MFA NO.200793/2015, MFA NO.200794/2015,
MFA NO.200795/2015, MFA NO.200796/2015,
MFA NO.200797/2015, MFA NO.201174/2015,
MFA NO.201175/2015, MFA NO.201176/2015,
MFA NO.201177/2015, MFA NO.201178/2015,
MFA NO.201179/2015, MFA NO.201180/2015,
MFA NO.201182/2015, MFA NO.201508/2015,
MFA NO.201509/2015, MFA NO.201510/2015,
MFA NO.201905/2015, MFA NO.201906/2015,
MFA NO.201909/2015, MFA NO.201910/2015,
MFA NO.201911/2015, MFA NO.201913/2015,
MFA NO.201914/2015, MFA CROB NO.200008/2021,
MFA CROB NO.200009/2021,
& MFA CROB NO.200010/2021 (MV)**

In MFA No.201912/2015

BETWEEN:

Ningappa S/o Ningappa,
Age: 35 years, Occ: Coolie,
R/o Village Savoor,
Tq. & Dist. Yadgiri-585201.

....Appellant

(By Smt. Hema L.Kulakarni, Advocate)

AND:

1. Venkataiah S/o Ananthaih Arella,
Age: 47 years, Occ: Business,
R/o Flat No.302, Sree Sai Shiva Vani Resi,
Kothpeth, Kotpalli B.O.K.V.R.R. Dist.
(AP) 501509.
2. M/s Chola mandalam General Insurance Co.Ltd.,
Through its Manager Legal Cell,
9-1, Ulsoor Road, Opp. Gurudwara,
Bangalore-01.
3. Raju B.
Age: 42 years, Occ: Business,
R/o No.12/1, 1st Floor, Jangamahalli,
Bus Stop, Kankapuram Main Road,
Bangalore-560042.
4. Royal Sunderam Alliance Insurance Co.Ltd.,
"Sundaram Towers" 45 & 46 White Road,
Chennai-600014.

...Respondents

(By Sri. S.S.Aspalli, Advocate for R2;
By Sri. C.S.Kalburgi, Advocate for R4;
Notice to R1 & R3 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to allow the appeal by modifying the impugned judgment and award dated 09.01.2015 passed by the Member MACT-II, Yadgiri in MVC No.149/2013 and consequently be pleased to enhance the compensation from Rs.8,71,200/- to Rs.9,82,000/- with interest @ 12% per annum from the date of petition till actual realization.

In MFA No.200788/2015**BETWEEN:**

The Royal Sunderam Alliance Ins. Co. Ltd.,
 "Sundaram Towers" 45 & 46 White Road,
 Chennai-600014. Regd. Office-21,
 Patullos Road, Chennai-600002.
 Rept. By Manager Legal.

....Appellant

(By Sri. C.S.Kalburgi, Advocate)

AND:

1. Sangappa S/o Dodda Mahadevappa Adimani,
Age: 27 years, Occ: Coolie,
2. Gangappa S/o Dodda Mahadevappa Adimani,
Age: 10 years, Minor, Occ: Student,
3. Ananthamma D/o Dodda Mahadevappa Adimani,
Age: 05 years, Minor, Occ: Student.

(Claimants No.2 & 3 are minors U/g of their
 Elder brother claimant No.1)

All R/o Jinikera Village, Tq. & Dist: Yadgiri.

4. Mr. Raju B.
Age: 46 years, Occ: Business & Owner of
 Bajaj / Force Motors Tempo Traveller
 Short Ambulance Bearing Reg.No.
 KA-05-C-8689, R/o #12/11 Kanakapura,
 Main Road, Bangalore-560042.
5. Venkatesh Arella S/o Anthaiah,
Age: 45 years, Occ: Business & the owner of
 Vehicle Ashok Leyland Lorry Bearing Reg.No.
 AP-29-TQ-1345, R/o Flat-302 Sri Sai Shiva Vani,
 R/o Kothapet, Rangareddy District (AP)501509.

6. M/S Cholamandalam Gen. ins. Co. Ltd.,
2nd Floor, Dare House, 2 NSC Bose Road,
Chennai-600001.

...Respondents

(By Sri. S.S.Sajjanashetty, Advocate for R1;
By Sri. S.S.Aspalli, Advocate for R6;
R2 & R3 are minors R/by R1;
Notice to R4 & R5 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act
praying to set aside the judgment and award dated 09th
day of January-2015 passed by the Member MACT-II
Yadgiri in MVC No.51/2013 and to modify the
compensation awarded and to pass such other orders.

In MFA No.200789/2015

BETWEEN:

The Royal Sunderam Alliance Ins. Co. Ltd.,
"Sundaram Towers" 45 & 46 White Road,
Chennai-600014. Regd. Office-21,
Patullos Road, Chennai-600002.
Rept. By Manager Legal.

....Appellant

(By Sri. C.S.Kalburgi, Advocate)

AND:

1. Sangappa S/o Dodda Mahadevappa Adimani,
Age: 27 years, Occ: Coolie,
2. Gangappa S/o Dodda Mahadevappa Adimani,
Age: 10 years, Minor, Occ: Student,
3. Ananthamma D/o Dodda Mahadevappa Adimani,
Age: 05 years, Minor, Occ: Student.

(Claimants No.2 & 3 are minors U/g of their
Elder brother claimant No.1)

All R/o Jinikera Village,
Tq. & Dist: Yadgiri-586101.

4. Mr. Raju B.
Age: 46 years, Occ: Business & Owner of
Bajaj / Force Motors Tempo Traveller
Short Ambulance Bearing Reg.No.
KA-05-C-8689, R/o #12/11 Kanakapura,
Main Road, Bangalore-560042.
5. Venkatesh Arella S/o Anthaiah,
Age: 45 years, Occ: Business & the owner of
Vehicle Ashok Leyland Lorry Bearing Reg.No.
AP-29-TQ-1345, R/o Flat-302 Sri Sai Shiva Vani,
R/o Kothapet, Rangareddy District (AP)501509.
6. Chola mandalam M/S Gen. Ins. Co. Ltd.,
2nd Floor, Dare House, 2 NSC Bose Road,
Chennai-600001.
Rept. By Manager Legal.

...Respondents

(By Sri. S.S.Sajjanashetty, Advocate for R1;
By Sri. S.S.Aspalli, Advocate for R6;
R2 & R3 are minors R/by R1
Notice to R4 & R5 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act
praying to set aside the judgment and award dated 09th
day of January-2015 passed by the Member MACT-II
Yadgiri in MVC No.52/2013 and to modify the
compensation awarded and to pass such other orders as
this Hon'ble Court deems fit under the facts and
circumstances of the case, including the costs.

In MFA No.200791/2015**BETWEEN:**

The Royal Sunderam Alliance Ins. Co. Ltd.,
 "Sundaram Towers" 45 & 46 White Road,
 Chennai-600014.

....Appellant

(By Sri. C.S.Kalburgi, Advocate)

AND:

1. Mahadevamma W/o Yellappa Kalthy,
Age: 59 years, Occ: Household,
2. Lalitamma D/o Siddappa,
Age: 14 years, Minor, Occ: Nil,
3. Kamanna S/o Siddappa,
Age: 12 years, minor, Occ: Nil,

The petitioner no.2 & 3 are minors
 U/g of her natural grand mother
 i.e. petitioner No.1 All R/o Tadibidi,
 Tq. Shahapur, Dist: Yadgir, now R/o
 Hattikuni Tq. & Dist: Yadgiri.

4. Venkataiah S/o Ananthaih Arella,
Age: 49 years, Occ: Business,
R/o Flat No.302, Sree Sai Shiva Vani,
Resi, Kothapeth, Kotpalli, B.O.K.V.R.R.
Dist: Andrapradesh-501509.
5. Chola mandalam MS GIC through
Its Manager Legal Cell, 9-1, Ulsoor Road,
Opp: Gurudwara, Bangalore.

6. Raju B.
Age: 46 years, Occ: Business,
R/o #12/11 1st Floor, Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore.

...Respondents

(By Smt. Hema L.K, Advocate for R1;
By Sri. S.S.Aspalli, Advocate for R5;
R2 & R3 are minors R/by R1;
Notice to R4 & R6 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to set aside the judgment and award dated 09th day of January-2015 passed by the Member MACT-II Yadgiri in MVC No.145/2013 and to modify the compensation awarded and to pass such other orders as this Hon'ble Court deems fit under the facts and circumstances of the case, including the costs.

In MFA No.200792/2015

BETWEEN:

The Royal Sunderam Alliance Ins. Co. Ltd.,
"Sundaram Towers" 45 & 46 White Road,
Chennai-600014.

....Appellant

(By Sri. C.S.Kalburgi, Advocate)

AND:

1. Mahadevamma W/o Yellappa Kalthy,
Age: 55 years, Occ: Household,
R/o Tadibeedi Hattikuni, Tq: Shahapur,
Dist: yadgiri now R/o Hattikuni,
Tq. & Dist: yadgiri.
2. Venkataiah S/o Ananthaih Arella,
Age: 45 years, Occ: Business,

R/o Flat No.302, Sree Sai Shiva Vani,
Resi, Kothapeth, Kotpalli, B.O.K.V.R.R.
Dist: Andrapradesh-501509.

3. Chola mandalam MS GIC through
Its Manager Legal Cell, 9-1, Ulsoor Road,
Opp: Gurudwara, Bangalore.
4. Raju B.
Age: 40 years, Occ: Business,
R/o #12/1 1st Floor, Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.

...Respondents

(By Smt. Hema L.K, Advocate for R1;
By Sri. S.S.Aspalli, Advocate for R3;
Notice to R2 & R4 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act
praying to set aside the judgment and award dated 09th
day of January-2015 passed by the Member MACT-II
Yadgiri in MVC No.146/2013 and to modify the
compensation awarded and to pass such other orders as
this Hon'ble Court deems fit under the facts and
circumstances of the case, including the costs.

In MFA No.200793/2015

BETWEEN:

The Royal Sunderam Alliance Ins. Co. Ltd.,
"Sundaram Towers" 45 & 46 White Road,
Chennai-600014.

....Appellant

(By Sri. C.S.Kalburgi, Advocate)

AND:

1. Renukamma W/o Mallappa Allegi,
Age: 20 years, Occ: Household & Coolie,
 2. Shivakumar S/o Mallappa Allegei,
Age: 7 (month) Minor,
U/g of her natural mother by name
Petitioner No.1 Renukamma W/o
Mallappa Allegi, Age: 20 years,
Occ: Household & Cooli,
Both R/o Hattikuni,
Tq. & Dist: Yadgiri-585101.
 3. Venkataiah S/o Ananthaih Arella,
Age: 45 years, Occ: Business,
R/o Flat No.302, Sree Sai Shiva Vani,
Resi, Kothapeth, Kotpalli, B.O.K.V.R.R.
Dist: Andrapradesh-501509.
 4. Chola mandalam MS GIC through
Its Manager Legal Cell, 9-1, Ulsoor Road,
Opp: Gurudwara, Bangalore.
 5. Raju B.
Age: 40 years, Occ: Business,
R/o #12/11 1st Floor, Jangamanhalli Bus Stop,
Kankapuram Main Road, Bangalore-560042.
- ...Respondents
- (By Smt. Hema L.K, Advocate for R1;
By Sri. S.S.Aspalli, Advocate for R4;
R2 is minor R/by R1;
Notice to R3 & R5 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to set aside the judgment and award dated 09th day of January-2015 passed by the Member MACT-II Yadgiri in MVC No.147/2013 and to modify the compensation awarded and to pass such other orders as this Hon'ble Court deems fit under the facts and circumstances of the case, including the costs.

In MFA No.200794/2015**BETWEEN:**

The Royal Sunderam Alliance Ins. Co. Ltd.,
 "Sundaram Towers" 45 & 46 White Road,
 Chennai-600014.

....Appellant

(By Sri. C.S.Kalburgi, Advocate)

AND:

1. Ningappa S/o Ningappa,
 Age: 33 years, Occ: Coolie,
 Village Savoor,
 Tq. & Dist: Yadgiri-585101.
2. Venkataiah S/o Ananthaih Arella,
 Age: 45 years, Occ: Business,
 R/o Flat No.302, Sree Sai Shiva Vani,
 Resi, Kothapeth, Kotpalli, B.O.K.V.R.R.
 Dist: Andrapradesh-501509.
3. Cholanmandalam MS GIC through
 Its Manager Legal Cell, 9-1, Ulsoor Road,
 Opp: Gurudwara, Bangalore-560044.
4. Raju B.
 Age: 40 years, Occ: Business,
 R/o #12/1, 1st Floor, Jangamanhalli Bus Stop,
 Kankapuram Main Road,
 Bangalore-560042.

...Respondents

(By Smt. Hema L.K, Advocate for R1;
 By Sri. S.S.Aspalli, Advocate for R3;
 Notice to R2 & R4 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to set aside the judgment and award dated 09th day of January-2015 passed by the Member MACT-II Yadgiri in MVC No.148/2013 and to modify the compensation awarded.

In MFA No.200795/2015

BETWEEN:

The Royal Sunderam Alliance Ins. Co. Ltd.,
"Sundaram Towers" 45 & 46 White Road,
Chennai-600014.

....Appellant

(By Sri. C.S.Kalburgi, Advocate)

AND:

1. Ningappa S/o Ningappa,
Age: 35 years, Occ: Coolie,
Village Savoor, Tq. & Dist: Yadgiri-585101.
2. Venkataiah S/o Ananthaih Arella,
Age: 47 years, Occ: Business,
R/o Flat No.302, Sree Sai Shiva Vani,
Resi, Kothapeth, Kotpalli, B.O.K.V.R.R.
Dist: Andrapradesh-501509.
3. Cholanmandalam MS GIC through
Its Manager Legal Cell, 9-1, Ulsoor Road,
Opp: Gurudwara, Bangalore-560044.
4. Raju B.
Age: 42 years, Occ: Business,
R/o #12/1, 1st Floor, Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.

...Respondents

(By Smt. Hema L.K, Advocate for R1;
By Sri. S.S.Aspalli, Advocate for R3;
Notice to R2 & R4 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to set aside the judgment and award dated 09th day of January-2015 passed by the Member MACT-II Yadgiri in MVC No.149/2013 and to modify the compensation awarded.

In MFA No.200796/2015

BETWEEN:

The Royal Sunderam Alliance Ins. Co. Ltd.,
"Sundaram Towers" 45 & 46 White Road,
Chennai-600014.

....Appellant

(By Sri. C.S.Kalburgi, Advocate)

AND:

1. Bassamma W/o Sabanna,
Age: 50 years, Occ: Coolie,
R/o Chakkarkatta of Yadgiri City,
Tq. & Dist: Yadgiri-595101.
2. Venkataiah S/o Ananthaih Arella,
Age: 47 years, Occ: Business,
R/o Flat No.302, Sree Sai Shiva Vani,
Resi, Kothapeth, Kotpalli, B.O.K.V.R.R.
Dist: Andrapradesh-501509.
3. Cholanmandalam MS GIC through
Its Manager Legal Cell, 9-1, Ulsoor Road,
Opp: Gurudwara, Bangalore-560044.
4. Raju B.
Age: 40 years, Occ: Business,
R/o #12/1, 1st Floor, Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.

...Respondents

(By Smt. Hema L.K, Advocate for R1;
By Sri. S.S.Aspalli, Advocate for R3;
Notice to R2 & R4 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to set aside the judgment and award dated 09th day of January-2015 passed by the Member MACT-II Yadgiri in MVC No.150/2013 and to modify the compensation awarded and to pass such other orders.

In MFA No.200797/2015

BETWEEN:

The Royal Sunderam Alliance Ins. Co. Ltd.,
"Sundaram Towers" 45 & 46 White Road,
Chennai-600014.

....Appellant

(By Sri. C.S.Kalburgi, Advocate)

AND:

1. Sarojamma W/o Mallikarjun @
Mallappa, Age: 38 years, Occ: Coolie,
R/o Mailapur Base on Yadgiri City,
Tq. & Dist: Yadgiri-595101.
2. Venkataiah S/o Ananthaih Arella,
Age: 45 years, Occ: Business,
R/o Flat No.302, Sree Sai Shiva Vani,
Resi, Kothapeth, Kotpalli, B.O.K.V.R.R.
Dist: Andrapradesh-501509.
3. Cholanmandalam MS GIC through
Its Manager Legal Cell, 9-1, Ulsoor Road,
Opp: Gurudwara, Bangalore-560044.
4. Raju B.
Age: 40 years, Occ: Business,
R/o #12/1, 1st Floor, Jangamanhalli Bus Stop,
Kankapuram Main Road, Bangalore-560042.

...Respondents

(By Smt. Hema L.K, Advocate for R1;
By Sri. S.S.Aspalli, Advocate for R3;
Notice to R2 & R4 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to set aside the judgment and award dated 09th day of January-2015 passed by the Member MACT-II Yadgiri in MVC No.152/2013 and to modify the compensation awarded and to pass such other orders.

In MFA No.201174/2015

BETWEEN:

Cholamandalam MS General Insurance Co. Ltd.,
Through its Manager Legal Cell-9-1,
Ulsoor Road, Opp: Gurudwara Bangalore.
Now Represented by its
Asst. Gen. Manager Claims.

....Appellant

(By Sri. S.S.Aspalli, Advocate)

AND:

1. Mahadevamma W/o Yellappa Kalthy,
Age: 57 years, Occ: Household,
2. Lalitamma D/o Siddappa,
Age: 12 years, Occ: Nil,
3. Kamanna S/o Siddappa,
Age: 10 years, occ: Nil,
The Petn.No.2 & 3 are minors
U/g of her natural grand mother
i.e., Petn. 1.

All R/o Tadibidi, Tq: Shahapur,
Dist: Yadgir, Now R/o Hattikuni,
Tq: & Dist. Yadgir-586101.

4. Venkataiah S/o Ananthaih Arella,
Age: 45 years, Occ: Business,
R/o Flat No.302, Sree Sai Shiva Vani,
Resi, Kothapeth, Kotpalli, B.O.K.V.R.R.
Dist: Andrapradesh-501509.

5. Raju B.
Age: 40 years, Occ: Business,
R/o #12/1, 1st Floor, Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.
6. The Royal Sundaram Alliance Insurance Co. Ltd.,
Sundaram Towers, 45 & 46 Whites Road,
Chennai-600014.

...Respondents

(By Smt. Hema L.K, Advocate for R1;
R-2 and R-3 minors rep. by R1
By Sri. C.S.Kalburgi, Advocate for R6;
Notice to R4 & R5 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act
praying to set aside the judgment and award dated
09.01.2015 in MVC No.145/2013 passed by the Senior
Civil Judge & MACT-II at Yadgir, by allowing the above
appeal.

In MFA No.201175/2015

BETWEEN:

Cholamandalam MS General Insurance Co. Ltd.,
Through its Manager Legal Cell-9-1,
Ulsoor Road, Opp: gurudwara Bangalore.
Now Represented by its
Asst. Gen. Manager Claims.

....Appellant

(By Sri. S.S.Aspalli, Advocate)

AND:

1. Ningappa S/o Ningappa,
Age: 35 years, Occ: Coolie,
R/o village Savoor,
Tq. & Dist. Yadagir.
2. Venkataiah S/o Ananthaih Arella,
Age: 45 years, Occ: Business,
R/o Flat No.302, Sree Sai Shiva Vani,
Resi, Kothapeth Kotpalli, B.O.K.V.R.R.
Dist: Andrapradesh-501509.
3. Raju B.
Age: 40 years, Occ: Business,
R/o #12/1, 1st Floor, Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.
4. The Royal Sundaram Alliance Insurance Co. Ltd.,
Sundaram Towers, 45 & 46 Whites Road,
Chennai-600014.

...Respondents

(By Smt. Hema L.K, Advocate for R1;
Sri.C.S.Kalburgi, Adv. for R4
Notice to R2 & R3 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act
praying to set aside the judgment and award dated
09.01.2015 in MVC No.144/2013 passed by the Senior
Civil Judge & MACT-II at Yadgir, by allowing the above
appeal.

In MFA No.201176/2015**BETWEEN:**

Cholamandalam MS General Insurance Co. Ltd.,
Through its Manager Legal Cell-9-1,
Ulsoor Road, Opp: Gurudwara Bangalore.
Now Represented by its
Asst. Gen. Manager Claims.

....Appellant

(By Sri. S.S.Aspalli, Advocate)

AND:

1. Mahadevamma W/o Yellappa Kalthy,
Age: 57 years, Occ: Household,
R/o Tadibidi, Tq: Shahapur,
Dist. Yadgir, Now R/o Hattikuni,
Tq. & Dist. Yadgir-585201.
2. Venkataiah S/o Ananthaih Arella,
Age: 45 years, Occ: Business,
R/o Flat No.302, Sree Sai Shiva Vani,
Resi, Kothapeth Kotpalli, B.O.K.V.R.R.
Dist: (A.P) 501509.
3. Raju B.
Age: 40 years, Occ: Business,
R/o #12/1, 1st Floor, Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.
4. The Royal Sundaram Alliance Insurance Co. Ltd.,
Sundaram Towers, 45 & 46 Whites Road,
Chennai-600014.

...Respondents

(By Smt. Hema L.K, Advocate for R1;
By Sri. C.S.Kalburgi, Advocate for R4;
Notice to R2 & R3 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to set aside the judgment and award dated 09.01.2015 in MVC No.146/2013 passed by the Senior Civil Judge & MACT-II at Yadgir, by allowing the above appeal.

In MFA No.201177/2015

BETWEEN:

Cholamandalam MS General Insurance Co. Ltd.,
Through its Manager Legal Cell-9-1,
Ulsoor Road, Opp: gurudwara Bangalore.
Now Represented by its
Asst. Gen. Manager Claims.

....Appellant

(By Sri. S.S.Aspalli, Advocate)

AND:

1. Renukamma W/o Mallappa Allegi,
Age: 22 years, Occ: Household & Coolie,
2. Shivakumar S/o Mallappa Allegi,
Age: 08 years (Minor),
U/G of her natural mother by name
Petrn.No.1 Renukamma W/o
Mallappa Allegai,

Both R/o Hattikuni,
Tq. & Dist. Yadgir-585201.
3. Venkataiah S/o Ananthaih Arella,
Age: 45 years, Occ: Business,
R/o Flat No.302, Sree Sai Shiva Vani,
Resi, Kothapeth Kotpalli, B.O.K.V.R.R.
Dist: (A.P) 501509.

4. Raju B.
Age: 40 years, Occ: Business,
R/o #12/1, 1st Floor, Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.
5. The Royal Sundaram Alliance Insurance Co. Ltd.,
Sundaram Towers, 45 & 46 Whites Road,
Chennai-600014.
6. Ningamma W/o Lingappa Allegi,
Age: 47 years, Occ: Coolie,
R/o Hattikundi,
Tq. & Dist: Yadgir-585201.

...Respondents

(By Smt. Hema L.K, Advocate for R1;
By Sri. C.S.Kalburgi, Advocate for R5;
Notice to R3, R4 & R6 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act
praying to set aside the judgment and award dated
09.01.2015 in MVC No.147/2013 passed by the Senior
Civil Judge & MACT-II at Yadgir, by allowing the above
appeal.

In MFA No.201178/2015

BETWEEN:

Cholamandalam MS General Insurance Co. Ltd.,
Through its Manager Legal Cell-9-1,
Ulsoor Road, Opp: Gurudwara Bangalore.
Now Represented by its
Asst. Gen. Manager Claims.

....Appellant

(By Sri. S.S.Aspalli, Advocate)

AND:

1. Ningappa S/o Ningappa,
Age: 35 years, Occ: Coolie,
R/o Village Savoor,
Tq. & Dist. Yadagir-585201.
2. Venkataiah S/o Ananthaih Arella,
Age: 45 years, Occ: Business,
R/o Flat No.302, Sree Sai Shiva Vani,
Resi, Kothapeth Kotpalli, B.O.K.V.R.R.
Dist: (A.P) 501509.
3. Raju B.
Age: 40 years, Occ: Business,
R/o #12/1, 1st Floor, Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.
4. The Royal Sundaram Alliance Insurance Co. Ltd.,
Sundaram Towers, 45 & 46 Whites Road,
Chennai-600014.

...Respondents

(By Smt. Hema L.K, Advocate for R1;
By Sri. C.S.Kalburgi, Advocate for R4;
Notice to R2 & R3 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act
praying to set aside the judgment and award dated
09.01.2015 in MVC No.148/2013 passed by the Senior
Civil Judge & MACT-II at Yadgir, by allowing the above
appeal.

In MFA No.201179/2015**BETWEEN:**

Cholamandalam MS General Insurance Co. Ltd.,
Through its Manager Legal Cell-9-1,
Ulsoor Road, Opp: Gurudwara Bangalore.
Now Represented by its
Asst. Gen. Manager Claims.

....Appellant

(By Sri. S.S.Aspalli, Advocate)

AND:

1. Ningappa S/o Ningappa,
Age: 35 years, Occ: Coolie,
R/o Village Savoor,
Tq. & Dist. Yadagir-585201.
2. Venkataiah S/o Ananthaih Arella,
Age: 45 years, Occ: Business,
R/o Flat No.302, Sree Sai Shiva Vani,
Resi, Kothapeth Kotpalli, B.O.K.V.R.R.
Dist: (A.P) 501509.
3. Raju B.
Age: 40 years, Occ: Business,
R/o #12/1, 1st Floor, Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.
4. The Royal Sundaram Alliance Insurance Co. Ltd.,
Sundaram Towers, 45 & 46 Whites Road,
Chennai-600014.

...Respondents

(By Smt. Hema L.K, Advocate for R1;
By Sri. C.S.Kalburgi, Advocate for R4;
Notice to R2 & R3 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to set aside the judgment and award dated 09.01.2015 in MVC No.149/2013 passed by the Senior Civil Judge & MACT-II at Yadgir, by allowing the above appeal.

In MFA No.201180/2015

BETWEEN:

Cholamandalam MS General Insurance Co. Ltd.,
Through its Manager Legal Cell-9-1,
Ulsoor Road, Opp: Gurudwara Bangalore.
Now Represented by its
Asst. Gen. Manager Claims.

....Appellant

(By Sri. S.S.Aspalli, Advocate)

AND:

1. Bassamma W/o Sabanna,
Age: 52 years, Occ: Coolie,
R/o Chakkarkatta of Yadgir,
City Tq. & Dist. Yadgir.
2. Venkataiah S/o Ananthaih Arella,
Age: 45 years, Occ: Business,
R/o Flat No.302, Sree Sai Shiva Vani,
Resi, Kothapeth Kotpalli, B.O.K.V.R.R.
Dist: (A.P) 501509.
3. Raju B.
Age: 40 years, Occ: Business,
R/o #12/1, 1st Floor, Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.

4. The Royal Sundaram Alliance Insurance Co. Ltd.,
Sundaram Towers, 45 & 46 Whites Road,
Chennai-600014.

...Respondents

(By Smt. Hema L.K, Advocate for R1;
By Sri. C.S.Kalburgi, Advocate for R4;
Notice to R2 & R3 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to set aside the judgment and award dated 09.01.2015 in MVC No.150/2013 passed by the Senior Civil Judge & MACT-II at Yadgir, by allowing the above appeal.

In MFA No.201182/2015

BETWEEN:

Cholamandalam MS General Insurance Co. Ltd.,
Through its Manager Legal Cell-9-1,
Ulsoor Road, Opp: Gurudwara Bangalore.
Now Represented by its
Asst. Gen. Manager Claims.

....Appellant

(By Sri. S.S.Aspalli, Advocate)

AND:

1. Sarojamma W/o Mallikarjun @ Mallappa,
Age: 40 years, Occ: Coolie,
R/o Mailapur Base of Yadgir City,
Tq. And Dist. Yadgir-585201.
2. Venkataiah S/o Ananthaih Arella,
Age: 45 years, Occ: Business,
R/o Flat No.302, Sree Sai Shiva Vani,
Resi, Kothapeth Kotpalli, B.O.K.V.R.R.
Dist: (A.P) 501509.

3. Raju B.
Age: 40 years, Occ: Business,
R/o #12/1, 1st Floor, Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.
4. The Royal Sundaram Alliance Insurance Co. Ltd.,
Sundaram Towers, 45 & 46 Whites Road,
Chennai-600014.

...Respondents

(By Smt. Hema L.K, Advocate for R1;
By Sri. C.S.Kalburgi, Advocate for R4;
Notice to R2 & R3 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to set aside the judgment and award dated 09.01.2015 in MVC No.152/2013 passed by the Senior Civil Judge & MACT-II at Yadgir, by allowing the above appeal.

In MFA No.201508/2015

BETWEEN:

Cholamandalam MS General Insurance Co. Ltd.,
IInd Floor, Dare House 2 NSC Bose Road,
Chennai.
Now Represented by its
Asst. Gen. Manager Claims Bangalore.

....Appellant

(By Sri. S.S.Aspalli, Advocate)

AND:

1. Hanmanti W/o Sanna Mahadevappa Adimani,
Age: 32 years, Occ: Household,
2. Mahadevi D/o Sanna Mahadevappa Adimani,
Age: 16 years, (Minor), Occ: Student,

3. Tayappa S/o Sanna Mahadevappa Adimani,
Age: 14 years, (Minor), Occ: Student,
4. Priyanka D/o Sanna Mahadevappa Adimani,
Age: 18 years (Minor), Occ: Student,
5. Renuka D/o Sanna Mahadevappa Adimani,
Age: 09 years (Minor), Occ: Student,

Claimants No.2 to 5 are minors U/g
of their natural younger brother
claimant No.1.

All R/o Jinikera Village,
Tq. & Dist: Yadgir-585601.

6. Raju B.
Age: 46 years, Occ: Business &
owner of Bajaj/ Force Motors Tempo Traveler Short
Ambulance bearing Reg.No.KA-05,
C-8689, R/o # 12/11, 1st Floor,
Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.
7. The Royal Sundaram Alliance Insurance Co. Ltd.,
Sundaram Towers, 45 & 46 Whites Road,
Chennai-600014.
Registered Office: 21, Patulls Road,
Chennai-600002. Rep. by Asst. Manager.
8. Venkatesh Arella S/o Anthiah,
Age: 47 years, Occ: Business & owner,
Owner of vehicle Ashok Leyland Lorry
Bearing Reg.No.AP-29, Tq-1345,
R/o Flat No.302 Sree Sai Shiva Vani Resi.
Kothpeth Kotapalli, Rangareddy,
Dist. (A.P.)501509.

...Respondents

(By S.S.Sajjanshetty, Advocate for R1;
By Sri. C.S.Kalburgi, Advocate for R7;
R2 to R5 are minors R/by R1;
Notice to R6 & R8 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to set aside the judgment and award dated 09.01.2015 in MVC No.50/2013 passed by the Senior Civil Judge & MACT-II at Yadgir, by allowing the above appeal.

In MFA No.201509/2015

BETWEEN:

Cholamandalam MS General Insurance Co. Ltd.,
IInd Floor, Dare House 2 NSC Bose Road,
Chennai
Now Represented by its
Asst. Gen. Manager Claims Bangalore.

....Appellant

(By Sri. S.S.Aspalli, Advocate)

AND:

1. Sangappa S/o Dodda Mahadevappa Adimani,
Age: 29 years, Occ: Coolie,
2. Gangappa S/o Dodda Mahadevappa Adimani,
Age: 12 years, (Minor), Occ: Student,
3. Ananthamma D/o Dodda Mahadevappa Adimani,
Age: 07 years, (Minor), Occ: Student,
Respondent No.2 and 3 are minors U/g
of their real elder brother-claimant No.1.

All R/o Jinikera village,
Tq. & Dist: Yadgiri-585601.

4. Raju B.
Age: 46 years, Occ: Business &
owner of Bajaj/ Force Motors Tempo Traveler Short
Ambulance bearing Reg.No.KA-05,
C-8689, R/o # 12/11, 1st Floor,
Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.
5. The Royal Sundaram Alliance Insurance Co. Ltd.,
Sundaram Towers, 45 & 46 Whites Road,
Chennai-600014.
Registered Office: 21, Patullos Road,
Chennai-600002.
Rep. by Asst. Manager.
6. Venkatesh Arella S/o Anthiah,
Age: 47 years, Occ: Business & owner,
Owner of vehicle Ashok Leyland Lorry
Bearing Reg.No.AP-29, Tq-1345,
R/o Flat No.302 Sree Sai Shiva Vani Resi.
Kothpeth Kotapalli, Rangareddy,
Dist. (A.P.)501509.

...Respondents

(By S.S.Sajjanshetty, Advocate for R1;
By Sri. C.S.Kalburgi, Advocate for R5;
R2 and R3 are minors R/by R1;
Notice to R4 & R6 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act
praying to set aside the judgment and award dated
09.01.2015 in MVC No.52/2013 passed by the Senior Civil
Judge & MACT-II at Yadgir, by allowing the above appeal.

In MFA No.201510/2015**BETWEEN:**

Cholamandalam MS General Insurance Co. Ltd.,
 IIInd Floor, Dare House 2 NSC Bose Road,
 Chennai

Now Represented by its
 Asst. Gen. Manager Claims Bangalore.

....Appellant

(By Sri. S.S.Aspalli, Advocate)

AND:

1. Sangappa S/o Dodda Mahadevappa Adimani,
 Age: 29 years, Occ: Coolie,
2. Gangappa S/o Dodda Mahadevappa Adimani,
 Age: 12 years, (Minor), Occ: Student,
3. Ananthamma D/o Dodda Mahadevappa Adimani,
 Age: 07 years, (Minor), Occ: Student,
 Respondent No.2 and 3 are minors U/g
 of their real elder brother-claimant No.1.

All R/o Jinikera village,
 Tq. & Dist: Yadgiri-585601.

4. Raju B.
 Age: 46 years, Occ: Business &
 owner of Bajaj/ Force Motors Tempo Traveler Short
 Ambulance bearing Reg.No.KA-05,
 C-8689, R/o # 12/11, 1st Floor,
 Jangamanhalli Bus Stop,
 Kankapuram Main Road,
 Bangalore-560042.
5. The Royal Sundaram Alliance Insurance Co. Ltd.,
 Sundaram Towers, 45 & 46 Whites Road,
 Chennai-600014.

Registered Office: 21, Patullos Road,
Chennai-600002.
Rep. by Asst. Manager.

6. Venkatesh Arella S/o Anthiah,
Age: 47 years, Occ: Business & owner,
Owner of vehicle Ashok Leyland Lorry
Bearing Reg.No.AP-29, Tq-1345,
R/o Flat No.302 Sree Sai Shiva Vani Resi.
Kothpeth Kotapalli, Rangareddy,
Dist. (A.P.)501509.

...Respondents

(By S.S.Sajjanshetty, Advocate for R1;
By Sri. C.S.Kalburgi, Advocate for R5;
R2 and R3 are minors R/by R1;
Notice to R4 & R6 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act
praying to set aside the judgment and award dated
09.01.2015 in MVC No.51/2013 passed by the Senior Civil
Judge & MACT-II at Yadgir, by allowing the above appeal.

In MFA No.201905/2015

BETWEEN:

Ningappa S/o Ningappa,
Age: 35 years, Occ: Coolie,
R/o Village Savoor,
Tq. & Dist: Yadgiri.

....Appellant

(By Smt. Hema L. Kulkarni, Advocate)

AND:

1. Venkatesh Arella S/o Anthiah,
Age: 47 years, Occ: Business,
R/o Flat No.302 Sree Sai Shiva Vani Resi.
Kothpeth Kotapalli B.O.K.V.R.R.
Dist. (A.P.)501509.

2. M/s Chola mandalam General Insurance Co. Ltd.,
Through its Manager Legal Cell,
9-1, Ulsoor Road,
Opp. Gurudwara Bangalore-560001.
3. Raju B.
Age: 42 years, Occ: Business,
R/o # 12/1, 1st Floor,
Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.
4. Royal Sundaram Alliance Insurance Co. Ltd.,
"Sundaram Towers", 45 & 46 Whites Road,
Chennai-600014.

...Respondents

(By Sri. S.S.Aspalli, Advocate for R2
By Sri. C.S.Kalburgi, Advocate for R4;
Notice to R1 & R3 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to allow the appeal by modifying the impugned judgment and award dated 09.01.2015 passed by the Member MACT-II, Yadgiri in MVC no.144/2013 and consequently be pleased to enhance the compensation from Rs.90,000/- to Rs.2,90,000/- with interest @ 12% per annum from the date of petition till actual realization.

In MFA No.201906/2015

BETWEEN:

1. Mahadevamma W/o Yeallappa Kalthym,
Age: 57 years, Occ: Household,
2. Lalitamma D/o Siddappa,
Age: 12 years, Occ: Nil,

3. Kamanna D/o Siddappa,
Age: 10 years, Minor, Occ: Nil,

Both U/g her natural grandmother
i.e., appellant No.1

All are R/o Tadibeedi Tq. Shahapur,
Dist. Yadgir, Now residing at Hattikuni,
Tq. & Dist: Yadgiri.

....Appellants

(By Smt. Hema L. Kulkarni, Advocate)

AND:

1. Venkatesh Arella S/o Anthiah,
Age: 47 years, Occ: Business,
R/o Flat No.302 Sree Sai Shiva Vani Resi.
Kothpeth Kotapalli B.O.K.V.R.R.
Dist. (A.P.)501509.
2. M/s Chola mandalam General Insurance Co. Ltd.,
Through its Manager Legal Cell,
9-1, Ulsoor Road,
Opp. Gurudwara Bangalore-560001.
3. Raju B.
Age: 42 years, Occ: Business,
R/o # 12/1, 1st Floor,
Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.
4. Royal Sundaram Alliance Insurance Co. Ltd.,
"Sundaram Towers", 45 & 46 Whites Road,
Chennai-600014.

...Respondents

(By Sri. S.S.Aspalli, Advocate for R2
By Sri. C.S.Kalburgi, Advocate for R4;
Notice to R1 & R3 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to allow the appeal by modifying the impugned judgment and award dated 09.01.2015 passed by the Member MACT-II, Yadgiri in MVC No.145/2013 and consequently be pleased to enhance the compensation from Rs.7,37,000/- to Rs.9,82,000/- with interest @ 12% per annum from the date of petition till actual realization.

In MFA No.201909/2015

BETWEEN:

1. Renukamma W/o Mallappa Allegi,
Age: 22 years, Occ: Household & Coolie,
2. Shivakumar S/o Mallappa Allegi,
Age: 8 years, Minor, Occ: Nil,

U/g her natural mother
i.e. Appellant No.1

Both R/o Hattikuni,
Tq. & Dist. Yadgiri-585201.

....Appellants

(By Smt. Hema L. Kulkarni, Advocate)

AND:

1. Venkatesh Arella S/o Anthiah,
Age: 47 years, Occ: Business,
R/o Flat No.302 Sree Sai Shiva Vani Resi.
Kothpeth Kotapalli B.O.K.V.R.R.
Dist. (A.P.)501509.
2. M/s Cholamandalam General Insurance Co. Ltd.,
Through its Manager Legal Cell,
9-1, Ulsoor Road,
Opp. Gurudwara Bangalore-560001.

3. Raju B.
Age: 42 years, Occ: Business,
R/o # 12/1, 1st Floor,
Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.
4. Royal Sundaram Alliance Insurance Co. Ltd.,
"Sundaram Towers", 45 & 46 Whites Road,
Chennai-600014.
5. Ningamma W/o Lingappa Allegi,
Age: 46 years, Occ: Coolie,
R/o Hattikundi,
Tq. & Dist: Yadgir-585201.

...Respondents

(By Sri. S.S.Aspalli, Advocate for R2
By Sri. C.S.Kalburgi, Advocate for R4;
Notice to R1 and R3 are dispensed with;
Notice to R5 dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to allow the appeal by modifying the impugned judgment and award dated 09.01.2015 passed by the Member MACT-II, Yadgiri in MVC No.147/2013 and consequently be pleased to enhance the compensation from Rs.9,19,800/- to Rs.9,82,000/- with interest @ 12% per annum from the date of petition till actual realization.

In MFA No.201910/2015

BETWEEN:

Sarojamma W/o Mallikarjun @ Mallappa,
Age: 40 years, Occ: Household & Coolie,
R/o Mallapur Base, Yadgiri, Tq. & Dist. Yadgir.

....Appellant

(By Smt. Hema L. Kulkarni, Advocate)

AND:

1. Venkatesh Arella S/o Anthiah,
Age: 47 years, Occ: Business,
R/o Flat No.302 Sree Sai Shiva Vani Resi.
Kothpeth Kotapalli B.O.K.V.R.R.
Dist. (A.P.)501509.
2. M/s Chola mandalam General Insurance Co. Ltd.,
Through its Manager Legal Cell,
9-1, Ulsoor Road,
Opp. Gurudwara Bangalore-560001.
3. Raju B.
Age: 42 years, Occ: Business,
R/o # 12/1, 1st Floor,
Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.
4. Royal Sundaram Alliance Insurance Co. Ltd.,
"Sundaram Towers", 45 & 46 Whites Road,
Chennai-600014.

...Respondents

(By Sri. S.S.Aspalli, Advocate for R2
By Sri. C.S.Kalburgi, Advocate for R4;
Notice to R1 and R3 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to allow the appeal by modifying the impugned judgment and award dated 09.01.2015 passed by the Member MACT-II, Yadgiri in MVC No.152/2013 and consequently be pleased to enhance the compensation from Rs.6,91,100/- to Rs.9,57,000/- with interest @ 12% per annum from the date of petition till actual realization.

In MFA No.201911/2015**BETWEEN:**

Mahadevamma W/o Yeallappa Kalthy,
 Age: 57 years, Occ: Household,
 R/o Tadibeedi, Tq. Shahapur,
 Dist. Yadgiri, Now residing at Hattikuni,
 Tq. & Dist. Yadgiri-585201.

....Appellant

(By Smt. Hema L. Kulkarni, Advocate)

AND:

1. Venkatesh S/o Ananthaih Arella,
 Age: 47 years, Occ: Business,
 R/o Flat No.302 Sree Sai Shiva Vani Resi.
 Kothpeth Kotapalli B.O.K.V.R.R.
 Dist. Hyderabad. (A.P.)501509.
2. M/s Cholanmandalam General Insurance Co. Ltd.,
 Through its Manager Legal Cell,
 9-1, Ulsoor Road,
 Opp. Gurudwara Bangalore-560002.
3. Raju B.
 Age: 42 years, Occ: Business,
 R/o # 12/1, 1st Floor,
 Jangamanhalli Bus Stop,
 Kankapuram Main Road,
 Bangalore-560042.
4. Royal Sundaram Alliance Insurance Co. Ltd.,
 "Sundaram Towers", 45 & 46 Whites Road,
 Chennai-600014.

...Respondents

(By Sri. S.S.Aspalli, Advocate for R2
 By Sri. C.S.Kalburgi, Advocate for R4;
 Notice to R1 & R3 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to allow the appeal by modifying the impugned judgment and award dated 09.01.2015 passed by the Member MACT-II, Yadgiri in MVC No.146/2013 and consequently be pleased to enhance the compensation from Rs.1,80,000/- to Rs.2,90,000/- with interest @ 12% per annum from the date of petition till actual realization.

In MFA No.201913/2015

BETWEEN:

Ningappa S/o Ningappa,
Age: 35 years, Occ: Coolie,
R/o Village Savoor, Tq. & Dist. Yadgiri.

....Appellant

(By Smt. Hema L. Kulkarni, Advocate)

AND:

1. Venkatesh S/o Ananthaih Arella,
Age: 47 years, Occ: Business,
R/o Flat No.302 Sree Sai Shiva Vani Resi.
Kothpeth Kotapalli B.O.K.V.R.R.
Dist. (A.P.)501509.
2. M/s Chola mandalam General Insurance Co. Ltd.,
Through its Manager Legal Cell,
9-1, Ulsoor Road,
Opp. Gurudwara Bangalore-01.
3. Raju B.
Age: 42 years, Occ: Business,
R/o # 12/1, 1st Floor,
Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.

4. Royal Sundaram Alliance Insurance Co. Ltd.,
"Sundaram Towers", 45 & 46 Whites Road,
Chennai-600014.

...Respondents

(By Sri. S.S.Aspalli, Advocate for R2
By Sri. C.S.Kalburgi, Advocate for R4;
Notice to R1 & R3 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to allow the appeal by modifying the impugned judgment and award dated 09.01.2015 passed by the Member MACT-II, Yadgiri in MVC No.151/2013 and consequently be pleased to enhance the compensation from Rs.90,000/- to Rs.2,90,000/- with interest.

In MFA No.201914/2015

BETWEEN:

Ningappa S/o Ningappa,
Age: 35 years, Occ: Coolie,
R/o Village Savoor,
Tq. & Dist. Yadgiri-585201.

....Appellant

(By Smt. Hema L. Kulkarni, Advocate)

AND:

1. Venkatesh S/o Ananthaih Arella,
Age: 47 years, Occ: Business,
R/o Flat No.302 Sree Sai Shiva Vani Resi.
Kothpeth Kotapalli B.O.K.V.R.R.
Dist. (A.P.)-501509.
2. M/s Chola mandalam General Insurance Co. Ltd.,
Through its Manager Legal Cell,
9-1, Ulsoor Road,
Opp. Gurudwara Bangalore-01.

3. Raju B.
Age: 42 years, Occ: Business,
R/o # 12/1, 1st Floor,
Jangamanhalli Bus Stop,
Kankapuram Main Road,
Bangalore-560042.
4. Royal Sundaram Alliance Insurance Co. Ltd.,
"Sundaram Towers", 45 & 46 Whites Road,
Chennai-600014.

...Respondents

(By Sri. S.S.Aspalli, Advocate for R2
By Sri. C.S.Kalburgi, Advocate for R4;
Notice to R1 & R3 are dispensed with)

This MFA is filed under Section 173(1) of M.V.Act praying to allow the appeal by modifying the impugned judgment and award dated 09.01.2015 passed by the Member MACT-II, Yadgiri in MVC No.148/2013 and consequently be pleased to enhance the compensation from Rs.1,80,000/- to Rs.2,90,000/- with interest @ 12% per annum from the date of petition till actual realization.

In MFA CROB No.200008/2021

BETWEEN:

1. Sangappa
S/o Late Dodda Mahadevappa Adimani,
Aged about 35 years,
Occ: Agriculture & Coolie,
2. Gangappa
S/o Late Dodda Mahadevappa Adimani,
Age: 17 years, Occ: Student,

3. Anantamma
D/o Late Dodda Mahadevappa Adimani,
Age: 12 years, Occ: Student,

Cross objectors No.2 and both minors,
U/G Elder brother No.1-claimant)

All R/o: Jinikera Village,
Tq: Dist: Yadgiri.

....Cross Objectors

(By S.S.Sajjanshetty, Advocate)

AND:

1. Raju B.
Age: 53 years, Occ: Business &
Owner of Bajaj/Force, Motors Tempo Traveller Short
Ambulance bearing Reg.No.KA-05, C-8689,
R/o H.No.12/11, 1st Floor,
Jangamanhalli Bus Stop,
Kankapuram Main Road, Bangalore.
Tq. Dist: Bangalore-560042.
2. Royal Sundaram Alliance Insurance Co. Ltd.,
"Sundaram Towers", 45 & 46 Whites Road,
Chennai-600014, its Registered Office
No.21, Patullos Road, Chennai-600002.
3. Venkatesh Arella S/o Ananthaih,
Age: 52 years, Occ: Business &
the owner of Vehicle, Ashok Leyland
Lorry bearing Reg.No.AP-29,
Tq-1345, R/o Flat No.302
Sree Sai Shiva Vani Resi.
Kothpeth, Dist: Rangareddy
(Andra Pradesh-State) Dist. (A.P.)501509.

4. Chola mandalam MS General Insurance Co. Ltd.,
2nd Floor, Dare House, 2 NSC Bose Road,
Chennai-600001.
Through: Chola mandalam MS GIC Ltd.,
135/5: 2nd Floor, 15th Cross
J.P.Nagar, 3rd Phase
9-1, Ulsoor Road,
Opp. Gurudwara Bangalore-01.

...Respondents

(By Sri. C.S.Kalburgi, Advocate for R2;
By Sri. S.S.Aspalli, Advocate for R4;
Notice to R1 & R3 are dispensed with)

This MFA CROB is filed under Order 41 Rule 22 of CPC, praying to allow the Cross objection by dismissing the both MFA Nos.200788/2015 & MFA No.201509/2015 filed by the Resp-2 & Resp-4/Insurers/Appellants, respectively, both as devoid of merits and modify the impugned Common Judgment and award dated 09.01.2015 in MVC No.52/2013 passed by the learned Member MACT-II Yadgiri by awarding suitable enhancement and etc.

In MFA CROB No.200009/2021

BETWEEN:

1. Sangappa
S/o Late Dodda Mahadevappa Adimani,
Aged about 35 years,
Occ: Agriculture & Coolie,
2. Gangappa
S/o Late Dodda Mahadevappa Adimani,
Age: 17 years, Occ: Student,

3. Anantamma
D/o Late Dodda Mahadevappa Adimani,
Age: 12 years, Occ: Student,

Cross objectors No.2 &3 and both minors,
U/G Elder brother No.1)

All R/o: Jinikera Village,
Tq: Dist: Yadgiri.

....Cross Objectors

(By S.S.Sajjanshetty, Advocate)

AND:

1. Raju B.
Age: 53 years, Occ: Business &
Owner of Bajaj/Force, Motors Tempo Traveller
Short Ambulance bearing
Reg.No.KA-05, C-8689,
R/o H.No.12/11, 1st Floor,
Jangamanhalli Bus Stop,
Kankapuram Main Road, Bangalore.
Tq. Dist: Bangalore-560042.
2. Royal Sundaram Alliance Insurance Co. Ltd.,
"Sundaram Towers", 45 & 46 Whites Road,
Chennai-600014, its Registered Office
No.21, Patullos Road, Chennai-600002.
3. Venkatesh Arella S/o Ananthaih,
Age: 52 years, Occ: Business & the owner
of Vehicle, Ashok Leyland Lorry
bearing Reg.No.AP-29
TQ-1345, R/o Flat No.302
Sree Sai Shiva Vani Resi.
Kothpeth, Dist: Rangareddy
(Andra Pradesh-State)
Dist. (A.P.)501509.

4. Cholamandalam MS General Insurance Co. Ltd.,
2nd Floor, Dare House, 2 NSC Bose Road,
Chennai-600001.
Through: Cholamandalam MS GIC Ltd.,
135/5: 2nd Floor, 15th Cross J.P.Nagar,
3rd Phase, Bangalore-560001.

...Respondents

(By Sri. C.S.Kalburgi, Advocate for R2;
By Sri. S.S.Aspalli, Advocate for R4;
Notice to R1 & R3 are dispensed with)

This MFA CROB is filed under Order 41 Rule 22 of CPC, praying to allow the Cross objection by dismissing the both MFA Nos.200788/2015 & MFA No.201510/2015 filed by the Resp-2 & Resp-4/Insurers, respectively and modify the Common Judgment and Award dated 09.01.2015 in MVC No.51/2013 passed Member MACT-II Yadgiri by suitable enhancement holding Jointly liable with 50% each and etc.

In MFA CROB No.200010/2021

BETWEEN:

1. Hanmanti
W/o Late Sanna Mahadevappa Adimani,
Aged about 38 years,
Occ: Household and Coolie.
2. Mahadevi
D/o Late Sanna Mahadevappa Adimani,
Age: 22 years, Occ: Student,

3. Tayappa
D/o Late Sanna Mahadevappa
Adimani, Age: 20 years, Occ: Student,
4. Priyanka
D/o Late Sanna Mahadevappa Adimani,
Age: 16 years, Occ: Student
Minor U/g of Cross Objector No.1.
5. Renuka D/o Late Sanna Mahadevappa
Adimani, Age: 15 years, Occ: Student
Minor U/g of Cross Objector No.1.

All R/o Jinikera Village,
Tq: Dist: Yadgir.

....Cross Objectors

(By S.S.Sajjanshetty, Advocate)

AND:

1. Raju B.
Age: 53 years, Occ: Business &
Owner of Bajaj/Force, Motors
Tempo Traveller Short Ambulance bearing
Reg.No.KA-05, C-8689,
R/o H.No.12/11, 1st Floor,
Jangamanhalli Bus Stop,
Kankapuram Main Road, Bangalore.
Tq. Dist: Bangalore-560042.
2. Royal Sundaram Alliance Insurance Co. Ltd.,
"Sundaram Towers", 45 & 46 Whites Road,
Chennai-600014, its Registered Office
No.21, Patullos Road, Chennai-600002.
3. Venkatesh Arella S/o Ananthaih,
Age: 52 years, Occ: Business & the owner
of Vehicle, Ashok Leyland Lorry

bearing Reg.No.AP-29 TQ-1345,
R/o Flat No.302 Sree Sai Shiva Vani Resi.
Kothpeth, Dist: Rangareddy
(Andra Pradesh-State) Dist. (A.P.)501509.

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2nd Floor, Dare House, 2 NSC Bose Road,
Chennai-600001.
Through: Cholamandalam MS GIC Ltd.,
135/5: 2nd Floor, 15th Cross J.P.Nagar,
3rd Phase, Bangalore-560001.

...Respondents

(By Sri. C.S.Kalburgi, Advocate for R2;
By Sri. S.S.Aspalli, Advocate for R4;
Notice to R1 & R3 are dispensed with)

This MFA CROB is filed under Order 41 Rule 22 of CPC, praying to allow the Cross objection by dismissing the both MFA Nos.200787/2015 & MFA No.201508/2015 filed by the Resp-2 & Resp-4/Insurers, respectively, both as devoid of merits and modify the impugned common judgment and award dated 09.01.2015 in MVC No.50/2013 passed by the learned Member MACT-II Yadgiri by awarding suitable enhancement of Just compensation payable in accordance with law and etc.

These MFAs and MFA CROBS coming on for Admission this day, the Court delivered the following:

JUDGMENT

These batch of appeals and Cross objections are arising out of common judgment and order dated 09.01.2015 passed in MVC Nos.144/2013, 145/2013, 146/2013, 147/2013, 148/2013, 149/2013, 150/2013, 151/2013 and 152/2013 and another common judgment dated 09.01.2015 passed in MVC Nos.50/2013, 51/2013 and 52/2013 on the file of the Member, MACT-II at Yadgiri (for short 'Tribunal').

2. Brief facts leading up to filing of these appeals are that on 10.04.2012, deceased persons namely;

- (a) Gangamma D/o: Ningappa aged 5 months,
- (b) Sabamma W/o. Siddappa, aged 40 years,
- (c) Sriram S/o. Siddappa, aged 3 years,
- (d) Mallappa, aged 25 years,
- (e) Hanmantha S/o. Ningappa, aged 3 years,
- (f) Gangamma W/o. Ningappa, aged 28 years,
- (g) Marilingappa @ Mariyappa S/o. Sabanna, aged 20 years,

- (h) Gangamma D/o; Ningappa,
aged 5 months,
- (i) Vijaykumar S/o Mallikarjun, aged 20 years,
- (j) Sanna Mahadevappa, aged 40 years,
- (k) Dodda Mahadevappa, aged 50 years,
- (l) Kamalamma W/o. Dodda Mahadevappa,
aged 49 years

were traveling in an ambulance bearing registration No.KA-05/C-8689 with a dead body of one Lingappa S/o Mallikarjun from Bengaluru towards Hattikuni. At about 4.00 a.m. when they were on Sindhanur – Siruguppa road, the driver of a lorry bearing registration No.AP-09/TA-1345 came from opposite side in a high speed, rash and negligent manner and dashed against the ambulance causing the accident resulting in the aforesaid inmates of the ambulance sustaining grievous injuries and succumbing to the same. A complaint was registered

in Crime No.99/2012 before Sindhanur Rural Police Station in this regard.

3. Thereupon, the following claim petitions were filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') seeking compensation:

i. MVC No.144/2013 is filed by Ningappa seeking compensation of Rs.2,90,000/- claiming to be the father of deceased Gangamma, who was five months old child.

ii. MVC No.145/2013 is filed by Mahadevamma, Lalitamma and Kamanna seeking compensation of Rs.9,82,000/- claiming to be the mother-in-law and children of deceased Sabamma W/o. Siddappa on the premise that said Sabamma was aged about 40 years, working as a labourer, earning Rs.8,000/- per month and was contributing for the welfare of the family.

iii. MVC No.146/2013 is filed by Mahadevamma seeking compensation of Rs.2,90,000/- claiming to be the grandmother of deceased Sriram S/o Siddappa, who was aged about three years.

iv. MVC No.147/2013 is filed by the Renukamma and Shivakumar claiming to be the wife and son respectively of deceased Mallappa seeking compensation of Rs.9,82,000/- on the premise that the deceased Mallappa was aged about 25 years, working as a labourer and earning Rs.8,000/- per month and was contributing for maintenance of the family.

v. MVC No.148/2013 is filed by Ningappa claiming compensation of Rs.2,90,000/- in respect of death of Hanmantha, who was aged about three years.

vi. MVC No.149/2013 is filed by Ningappa claiming compensation of Rs.9,82,000/- on account of death of his wife Gangamma on the premise that she was aged about 28 years, working as a labourer, was earning Rs.8,000/- per month and was contributing for her family of the welfare.

vii. MVC No.150/2013 was filed by Bassamma W/o. Sabanna claiming compensation of Rs.9,57,000/- on account of the death of her son Marilingappa @ Mariyappa S/o. Sabanna on the premise that the deceased was aged about 20 years, working as a labourer and was earning Rs.8,000/- per month.

viii. MVC No.151/2013 is filed by Ningappa claiming compensation of Rs.2,90,000/- in respect of death of Gangamma, a five months old child.

ix. MVC No.152/2013 is filed by Sarojamma claiming compensation of Rs.9,57,000/- on account of

death of her son Vijaykumar on the premise that he was aged about 20 years, earning Rs.8,000/- per month and was contributing to the family.

x. MVC No.50/2013 filed by Hanmanti, Mahadevi, Tayappa, Priyanka and Renuka claiming to be the wife and children deceased Sannamahadevappa.

xi. MVC No.51/2013 is filed by Sangappa, Gangappa, Ananthamma claiming to be the children of Doddamahadevappa.

xii. MVC No.52/2013 is filed by Sangappa, Gangappa, Ananthamma claiming to be the children of Kamalamma W/o: Doddamahadevappa.

4. It is a common contention in all these petitions that the accident in question had occurred on account of rash and negligent driving of the offending vehicles namely, lorry as well as the ambulance resulting in grievous injuries sustained by the

aforesaid inmates eventually leading up to their deaths.

5. Despite service of notice, respondent Nos.1 and 3 being the owners of the lorry and ambulance respectively have remained absent and were placed ex parte. Respondent No.2 – Cholamandalam General Insurance Company Limited, who is the insurer of the lorry and respondent No.4 – Royal Sundaram Alliance Insurance Company Limited, who is the insurer of the ambulance appeared through their advocates and filed their separate written statements.

6. Respondent No.2 in its written statement specifically denied the allegations of accident having taken place due to the rash and negligent driving by the driver of the lorry. However, issuance of insurance policy in respect of lorry belonging to respondent No.1 is admitted. It is contended that the

driver of the ambulance did not possess valid and effective driving license at the time of the accident. That the accident had occurred on account of sole negligence on the part of the driver of ambulance but not on account of any negligence on the part of the driver of the lorry. As such, the petitions as against respondent No.2 were sought to be dismissed.

7. Respondent No.4 in its written statement denied the averments made in the petitions. Age, occupation and income of the deceased as well as the mode and manner of the accident is also denied. However, it is admitted that the ambulance belonging to respondent No.3 had been insured with respondent No.4. It is contended that the accident had occurred on account of negligence on the part of the driver of the lorry. It is also contended that the driver of the ambulance did not possess valid and effective driving license at the time of the accident and there was

breach of terms of the policy. Therefore, sought for dismissal of the claim petitions.

8. The Tribunal framed issues and recorded evidence. Claimants in MVC Nos.144 to 152 of 2013 have been examined as PW.1 to PW.9 and exhibited common 13 documents marked as Exs.P1 to P13. On behalf of the respondents, one Sri Karthik, Sri K.Anwar and Sri Shreyas have been examined as RWs.1 to 3 respectively and exhibited 11 documents marked as Exs.R1 to R11. Claimant No.1 in MVC Nos.50, 51 and 52 of 2013 have been examined as PWs.1 to PW.3 respectively and exhibited 8 documents marked as Ex.P1 to P8. One Mr.Bahubali and Shreyas D have been examined as RW.1 and RW.2 and exhibited 12 documents marked as Exs.R1 to R.12.

9. By the impugned judgments, the Tribunal held that the accident in question had occurred on account of rash and negligent driving of both the driver of ambulance as well as the driver of the lorry and consequently awarded the compensation as under:

(i) The claimants in MVC No.144/2013 and MVC No.151/2013 are held entitled for compensation of Rs.1,80,000/- (i.e., Rs.90,000/- in each petition).

(ii) The claimants in MVC No.145/2013 are held entitled for compensation of Rs.7,37,000/-.

(iii) The claimant in MVC No.146/2013 is held entitled for compensation of Rs.1,80,000/-.

(iv) The claimants in MVC No.147/2013 are held entitled for compensation of Rs.9,19,800/-.

(v) The claimant in MVC No.148/2013 is held entitled for compensation of Rs.1,80,000/-.

(vi) The claimant in MVC No.149/2013 is held entitled for compensation of Rs.8,71,200/-.

(vii) The claimant in MVC No.150/2013 is held entitled for compensation of Rs.6,91,100/-.

(viii) The claimant in MVC No.152/2013 is held entitled for compensation of Rs.6,91,100/-.

(ix) The claimants in MVC No.50/2013 are held entitled for compensation of Rs.8,34,750/-.

(x) The claimant in MVC No.51/2013 are held entitled for compensation of Rs.4,31,000/-.

(xi) The claimant in MVC No.52/2013 are held entitled for compensation of Rs.6,43,000/-.

10. The tribunal has further directed respondent Nos.1 to 4 jointly and severally liable to

pay compensation with interest at 6% per annum from the date of claim petitions till realization on the said compensation.

11. Being aggrieved by the aforesaid judgment and award, the claimants have filed the following appeals seeking enhancement;

- (i) MFA No.201905/2015
- (ii) MFA No.201906/2015
- (iii) MFA No.201911/2015
- (iv) MFA No.201909/2015
- (v) MFA No.201910/2015
- (vi) MFA No.201912/2015
- (vii) MFA No.201913/2015
- (viii) MFA No.201914/2015

12. Similarly, challenging the liability fixed on them the respondent No.2- Cholamandalam Insurance Company has filed following appeals;

- (i) MFA No.201174/2015
- (ii) MFA No.201175/2015
- (iii) MFA No.201176/2015
- (iv) MFA No.201177/2015
- (v) MFA No.201178/2015
- (vi) MFA No.201179/2015
- (vii) MFA No.201180/2015
- (viii) MFA No.201182/2015
- (ix) MFA No.201508/2015
- (x) MFA No.201509/2015
- (xi) MFA No.201510/2015

13. The respondent No.4 - Royal Sunderam Insurance Company challenging the liability fixed on them has filed following appeals;

- (i) MFA No.200788/2015
- (ii) MFA No.200789/2015
- (iii) MFA No.200791/2015
- (iv) MFA No.200792/2015
- (v) MFA No.200793/2015
- (vi) MFA No.200794/2015
- (vii) MFA No.200795/2015
- (viii) MFA No.200796/2015
- (ix) MFA No.200797/2015

14. The claimants in MVC No.52/2013 have filed MFA Crob.No.200008/2021 in MFA No.200789/2015 and MFA No.201509/2015.

15. The claimants in MVC No.51/2013 have filed MFA Crob.No.200009/2021 in MFA No.200788/2015 and MFA No.201510/2015.

16. The claimants in MVC No.50/2013 have filed MFA Crob.No.200010/2021 in MFA.201508/2015.

17. Smt. Hema L.Kulkarni, learned counsel for the appellants/claimants reiterating the grounds urged in the memorandum of appeals submitted that;

(a) The deceased Sabamma aged 40 years, Mallappa aged 25 years, Gangamma aged 28 years, Mariyappa aged 20 years and Vijaykumar aged 20 years were working as labourers and earning

Rs.8,000/- per month and were contributing to their respective families. However, the tribunal has taken their income @ Rs.4,500/- per month which is on a lower side. She further submits that the tribunal ought to have taken their income as per the chart prepared by the High Court Legal Services Committee. She submits that award of compensation under other heads are on the lower side. Hence, the same requires to be enhanced.

(b) As regards the compensation awarded by the tribunal in respect of the deceased Gangamma, Sriram, Hanmantha and Gangamma who are aged between 5 months to 3 years, wherein the tribunal has granted a sum of Rs.90,000/- and a sum of Rs.1,80,000/-, learned counsel submits that the tribunal ought to have awarded minimum compensation of Rs.5,00,000/- in terms of the law laid down by the Hon'ble Apex Court in the case of ***Kishan***

***Gopal & Another Vs. Lala & Others in Civil Appeal
No.7137/2013.***

(c) She further submits that the tribunal has not awarded compensation under conventional heads, which requires to be awarded.

18. Sri S.S.Sajjanshetty, learned counsel appearing for the Cross objectors in MFA Crob.Nos.200008, 200009 and 200010 of 2021 reiterating the grounds urged in the memorandum of appeals submits that the tribunal erred in assessing the income of the deceased @ Rs.4,500/- per month though they were earning Rs.15,000/- per month. That the future prospects have been awarded @ 30% instead of 40%. That the award of compensation under the conventional heads are on the lower side.

19. Sri.S.S.Aspalli, learned counsel appearing for the appellants-Cholamandalam Insurance Company submits that;

(a) The compensation awarded by the tribunal is just and proper and does not warrant any interference.

(b) Adverting to the submissions with regard to the minors, he submits that the law laid down by the Hon'ble Apex Court in ***Kishan Gopal's*** case (supra) may not be applicable in the instant case as the facts dealt in the said case were in respect of a child aged 10 years who was assisting his parents in their agricultural activities. Based on these circumstances, the Hon'ble Apex Court had assessed the compensation of Rs.5,00,000/-, whereas in the instant case the minor children were below 3 years of age and

the question of they assisting their family in any manner would not arise.

(c) As regards the liability, the learned counsel submits that perusal of FIR, at Ex.P2, Complaint at Ex.P3 as well as spot mahazar at Ex.P3, categorically establish that the accident had occurred on account of negligence solely attributable on the part of the driver of ambulance. He submits that the lorry was proceeding from Sindhanur to Siraguppa i.e. in the direction of West to East, whereas the ambulance was proceeding from Siraguppa to Sindhanur i.e. in the direction of East to West. He submits that spot panchanama would reveal that the accident has taken place on the track of the lorry which is on extreme right side of the track of the ambulance. Therefore, he submits that the material evidence placed on record would indicate the accident had taken place on account of negligence on the part of driver of

ambulance. Hence, he submits that fixing of liability at 50% on both the drivers of lorry as well as the ambulance by the tribunal is without appreciation of material evidence.

He placed reliance upon the judgments of the Hon'ble Apex Court in the case of;

(i) *Oriental Insurance Co. Ltd. Vs. Premlata Shukla and Others*, reported in *2007 ACJ 1928*,

(ii) *National Insurance Co. Ltd. Vs. Rattani and Others*, reported in *2009 ACJ 925*.

Hence, he seeks for setting aside of the order passed by the tribunal to the extent fixing the liability on respondent No.2-appellant.

20. Sri.C.S.Kalburgi, learned counsel appearing for the respondent No.4 - Royal Sunderam Insurance Company, submits that;

(a) The accident in question had occurred on account of rash and negligent driving of the lorry as seen from the material evidence available on record. He submits that though FIR, complaint and spot panchanama at Exs.P1 to P3 have been produced, no witnesses have been examined to corroborate the said material evidence. He submits that the said FIR, complaint and spot panchanama cannot be the basis to hold that negligence was on the part of the driver of ambulance. He submits that considering the IMV report at Ex.P4, the tribunal has rightly fixed and apportioned the negligence in the ratio of 50:50 on both respondent Nos.2 and 4, which is just and proper and need not be interfered with.

(b) He further submits that admittedly 12 persons along with dead body were traveling in the ambulance and the seating capacity of the ambulance is just 5 (4 + 1) and the driver of ambulance was also not holding valid and effective driving license. Therefore, no liability can be fastened on the respondent No.4- Insurance Company as there was breach of terms of policy conditions. Hence, he seeks for allowing of the appeals.

21. Heard the learned counsel for the parties and perused the records.

22. The points that arise for consideration are;

- (a) Whether the appellants and the cross objectors have made out a case for enhancement of compensation?
- (b) Whether the tribunal is justified in attributing the negligence in the ratio of 50:50 on the part of driver of ambulance

and driver of lorry and consequently directing respondent Nos.2 and 4 to pay the compensation?

23. **Regarding point No.1:** The accident in question resulting in death of inmates is not in dispute. Though the claimants in MVC Nos.145/2013, 147/2013, 149/2013, 150/2013 and 152/2013 and cross objectors in MVC Nos.50, 51 and 52 of 2013 have claimed that deceased were earning Rs.8,000/- and Rs.15,000/- per month, no evidence has been placed on record in this aspect. In the absence of any material documents with regard to the income, this Court takes into consideration the chart prepared by the Karnataka State Legal Services Committee, in terms of which notional income of the victims of road traffic accident of the year 2012 is fixed at Rs.6,500/- per month. The same needs to be taken into consideration in this case as well instead of Rs.4,500/- per month taken by the tribunal.

24. In terms of the law laid down by the Hon'ble Apex Court in the case of ***NATIONAL INSURANCE COMPANY LTD. VS. PRANAY SETHI***, reported in ***(2017) 16 SCC 680***, 40% of assessed income needs to be awarded towards future prospects in respect of the deceased, who are all below 40 years and 25% in respect of deceased who are below 50 years. From the assessed income $\frac{1}{3}^{\text{rd}}$ or $\frac{1}{4}^{\text{th}}$ as the case may be needs to be deducted towards personal expenses of the deceased. Further in terms of law laid down by the Hon'ble Apex Court in the case of ***MAGMA GENERAL INSURANCE COMPANY LIMITED VERSUS NANU RAM ALIAS CHUHRU RAM AND OTHERS*** reported in ***(2018) 18 SCC 130***, a sum of Rs.40,000/- each under the heads of consortium needs to be awarded to the claimants. That apart a sum of Rs.15,000/- each shall be awarded towards loss of estate and funeral expenses.

25. Hence, by applying the law laid down by the Hon'ble Apex Court in the aforesaid cases, the compensation in respect of claimants would be as under;

IN MVC No.145/2013:

The deceased in this case was aged about 40 years. The deceased left behind 3 legal representatives. Taking the notional income at Rs.6,500/- per month with addition of 40% towards future prospects and after deducting $\frac{1}{3}^{\text{rd}}$ towards personal expenses applying the applicable 15 multiplier, the compensation under the head loss of dependency would be Rs.10,92,060/-, $(6,500 + \text{Rs.}2,600 (40\%) = \text{Rs.}9,100 - \text{Rs.}3,033 (\frac{1}{3}^{\text{rd}}) \text{Rs.}6,067 \times 12 \times 15)$. In addition, Rs.40,000/- each under the heads of loss of spousal consortium and parental consortium and Rs.15,000/- each under the heads of funeral expenses and loss of estate is awarded. Thus, the claimants are

held entitled for total compensation of Rs.12,42,060/-
as under;

Sl. No.	Heads	By Tribunal	By this Court
1	Loss of dependency	Rs.7,02,000/-	Rs.10,92,060/-
2	Loss of consortium	---	Rs.1,20,000/-
3	Loss of estate	Rs.10,000/-	Rs.15,000/-
4	Towards love and affection	Rs.10,000/-	---
5	Funeral expenses	Rs.10,000/-	Rs.15,000/-
6	Towards transportation of dead body	Rs.5,000/-	----
	Total	Rs.7,37,000/-	Rs.12,42,060/-

IN MVC No.147/2013:

The deceased in this case was aged about 25 years. The deceased left behind 2 legal representatives. Taking the notional income at Rs.6,500/- per month with addition of 40% towards future prospects and after deducting $1/3^{\text{rd}}$ towards personal expenses applying the applicable 18 multiplier, the compensation under the head loss of dependency would be Rs.13,10,472/- (6,500/- + Rs.2,600 (40%) = Rs.9,100 - 3033 ($1/3^{\text{rd}}$) = Rs.6067x12x18). In

addition, Rs.40,000/- each under the heads of loss of spousal and parental consortium and Rs.15,000/- each under the heads of funeral expenses and loss of estate is awarded. Thus, the claimants are held entitled for total compensation of Rs.14,20,472/- as under;

Sl. No.	Heads	By Tribunal	By this Court
1	Loss of dependency	Rs.8,74,800/-	Rs.13,10,472/-
2	Loss of consortium	Rs.10,000/-	Rs.80,000/-
3	Loss of estate	Rs.10,000/-	Rs.15,000/-
4	Towards love and affection	Rs.10,000/-	---
5	Funeral expenses	Rs.10,000/-	Rs.15,000/-
6	Towards transportation of dead body	Rs.5,000/-	----
	Total	Rs.9,19,800/-	Rs.14,20,472/-

IN MVC No.149/2013:

The deceased in this case was aged about 28 years.

The deceased left behind 1 legal representative.

Taking the notional income at Rs.6,500/- per month

with addition of 40% towards future prospects and

after deducting 50% towards personal expenses applying the applicable 17 multiplier, the compensation under the head loss of dependency would be Rs.9,18,000/- (6,500/- + Rs.2,600 (40%) = Rs.9,100 - Rs.4,550 (50%)= Rs.4,550x12x17). In addition, Rs.40,000/- under the head of spousal consortium and Rs.15,000/- each under the heads of funeral expenses and loss of estate is awarded. Thus, the claimant is held entitled for total compensation of Rs.9,88,000/- as under;

Sl. No.	Heads	By Tribunal	By this Court
1	Loss of dependency	Rs.8,26,200/-	Rs.9,18,000/-
2	Loss of consortium	Rs.10,000/-	Rs.40,000/-
3	Loss of estate	Rs.10,000/-	Rs.15,000/-
4	Towards love and affection	Rs.10,000/-	---
5	Funeral expenses	Rs.10,000/-	Rs.15,000/-
6	Towards transportation of dead body	Rs.5,000/-	----
	Total	Rs.8,71,200/-	Rs.9,88,000/-

IN MVC No.150/2013:

The deceased in this case was aged about 20 years. The deceased left behind 1 legal representative. Taking the notional income at Rs.6,500/- per month with addition of 40% towards future prospects and after deducting 50% towards personal expenses applying the applicable 18 multiplier, the compensation under the head loss of dependency would be Rs.9,72,000/- (Rs.6,500/- + Rs.2,600 (40%) = Rs.9,100 - 4,550 (50%) = Rs.4,550 x 12x18). In addition, Rs.40,000/- under the head of loss of parental consortium and Rs.15,000/- each under the heads of funeral expenses and loss of estate is awarded. Thus, the claimant is held entitled for total compensation of Rs.10,42,000/- as under;

Sl. No.	Heads	By Tribunal	By this Court
1	Loss of dependency	Rs.6,56,100/-	Rs.9,72,000/-
2	Loss of consortium	Rs.10,000/-	Rs.40,000/-
3	Loss of estate	Rs.10,000/-	Rs.15,000/-
4	Towards love and affection	Rs.10,000/-	---
5	Funeral expenses	Rs.10,000/-	Rs.15,000/-
6	Towards transportation of dead body	Rs.5,000/-	----
	Total	Rs.6,91,000/-	Rs.10,42,000/-

IN MVC No.152/2013:

The deceased in this case was aged about 20 years.

The deceased left behind 1 legal representative.

Taking the notional income at Rs.6,500/- per month with addition of 40% towards future prospects and after deducting 50% towards personal expenses applying the applicable 18 multiplier, the compensation under the head loss of dependency would be 9,72,000/- (Rs.6,500/- + Rs.2,600 (40%) = Rs.9,100 - 4,550 (50%) = Rs.4,550 x 12x18). In addition, Rs.40,000/- under the head of loss of

parental consortium and Rs.15,000/- each under the heads of funeral expenses and loss of estate is awarded. Thus, the claimant is held entitled for total compensation of Rs.10,42,000/- as under;

Sl. No.	Heads	By Tribunal	By this Court
1	Loss of dependency	Rs.6,56,100/-	Rs.9,72,000/-
2	Loss of consortium	Rs.10,000/-	Rs.40,000/-
3	Loss of estate	Rs.10,000/-	Rs.15,000/-
4	Towards love and affection	Rs.10,000/-	---
5	Funeral expenses	Rs.10,000/-	Rs.15,000/-
6	Towards transportation of dead body	Rs.5,000/-	----
	Total	Rs.6,91,000/-	Rs.10,42,000/-

26. IN MFA CROB.NO.200008/2021 arise out of MVC No.50/2013:

The deceased in this case was aged about 40 years. The deceased left behind 5 legal representatives. Taking the notional income at

Rs.6,500/- per month with addition of 40% towards future prospects and after deducting $1/4^{\text{th}}$ towards personal expenses applying the applicable 15 multiplier, the compensation under the head loss of dependency would be Rs.12,28,500/- (Rs.6,500 + Rs.2,600 (40%) = Rs.9,100 – 2,275 ($1/4^{\text{th}}$) = 6,825x 12x15). In addition, Rs.40,000/- each under the heads of loss of spousal consortium and parental consortium and Rs.15,000/- each under the heads of funeral expenses and loss of estate is awarded. Thus, the claimants are held entitled for total compensation of Rs.14,58,500/- as under;

Sl. No.	Heads	By Tribunal	By this Court
1	Loss of dependency	Rs.7,89,750/-	Rs.12,28,500/-
2	Loss of consortium	Rs.10,000/-	Rs.2,00,000/-
3	Loss of estate	----	Rs.15,000/-
4	Towards love and affection	Rs.10,000/-	-----
5	Funeral expenses	Rs.10,000/-	Rs.15,000/-
6	Towards transportation of dead body	Rs.5,000/-	----
	Total	Rs.8,34,750/-	Rs.14,58,500/-

27. IN MFA CROB.No.200009/2021 arise out of MVC No.51/2013.

The deceased in this case was aged about 50 years. The deceased left behind 3 legal representatives. Taking the notional income at Rs.6,500/- per month with addition of 25% towards future prospects and after deducting 1/3rd towards personal expenses applying the applicable 13 multiplier, the compensation under the head loss of dependency would be Rs.8,45,052/-, (Rs.6,500/- + Rs.2708/- (25%) = 5417 x 12 13). In addition, Rs.40,000/- each under the heads of loss of spousal consortium and parental consortium and Rs.15,000/- each under the heads of funeral expenses and loss of estate is awarded. Thus, the claimants are held entitled for total compensation of Rs.9,95,052/- as under;

Sl. No.	Heads	By Tribunal	By this Court
1	Loss of dependency	Rs.3,96,000/-	Rs.8,45,052/-
2	Loss of consortium	----	Rs.1,20,000/-
3	Loss of estate	----	Rs.15,000/-
4	Towards love and affection	Rs.10,000/-	-----
5	Funeral expenses	Rs.10,000/-	Rs.15,000/-
6	Towards transportation of dead body	Rs.5,000/-	----
	Total	Rs.4,31,000/-	Rs.9,95,052/-

28. IN MFA CROB.No.200010/2021 arise out of MVC No.52/2013:

The deceased in this case was aged about 49 years. The deceased left behind 3 legal representatives. Taking the notional income at Rs.6,500/- per month with addition of 25% towards future prospects and after deducting 1/3rd towards personal expenses applying the applicable 13 multiplier, the compensation under the head loss of dependency would be Rs.8,45,052/-, (Rs.6,500/- +

Rs.2708/- (25%) = 5417 x 12 13). In addition, Rs.40,000/- each under the head of loss of parental consortium and Rs.15,000/- each under the heads of funeral expenses and loss of estate is awarded. Thus, the claimants are held entitled for total compensation of Rs.9,95,052/- as under;

Sl. No.	Heads	By Tribunal	By this Court
1	Loss of dependency	Rs.6,08,400/-	Rs.8,45,052/-
2	Loss of consortium	----	Rs.1,20,000/-
3	Loss of estate	Rs.10,000/-	Rs.15,000/-
4	Towards love and affection	Rs.10,000/-	-----
5	Funeral expenses	Rs.10,000/-	Rs.15,000/-
6	Towards transportation of dead body	Rs.5,000/-	----
	Total	Rs.6,43,400/-	Rs.9,95,052/-

29. As regards the claimants in respect of deceased minors, the Hon'ble Apex Court in *Kishan Gopa's* case (supra) considering the facts and circumstances of that case was pleased to award a sum of Rs.5,00,000/- in which age of the minor boy

was 10 years. In the case of ***Kurvan Ansari @ Kurvan Ali and Another Vs. Shyam Kishore Murmu and Another*** reported in **2022 1 SCC 317**, a case involving a claim under Section 163-A of M.V.Act, for death of child aged 7 years, the Hon'ble Apex Court has awarded compensation of Rs.4,70,000/-. Hence, considering the facts and circumstances of the present case and in view of the judgment of the Apex Court in *Kurvan Ansari's case* supra, this Court is of the considered view that a sum of Rs.4,70,000/- be awarded to claimants in the case of death of Gangamma, Sriram, Hanmantha and Gangamma which are subject matter of MFA No.201905/2015 arising out of MVC Nos.144/2013, MFA No.201911/2015 arising out of MVC No.146/2013 and MFA No.201914/2015 arising out of MVC No.148/2013 and MFA No.201913/2015 arising out of MVC No.151/2013.

30. **Point No.2: Regarding negligence and liability:** Adverting to the issue of negligence and liability, it is necessary to see that no witness has been examined with regard to the proof of negligence either on the part of driver of the ambulance or on the part of the driver of the lorry. However, this Court has to appreciate the contents of FIR, complaint, spot panchanama and IMV report at Exs.P1 to P4. Perusal of the complaint which was given by one Ningamma at 9.00 p.m. on the date of the accident reveals that the accident had occurred on account of rash and negligent driving by the driver of ambulance. The FIR has been registered on the basis of the said complaint as per Ex.P2. A close perusal of the spot panchanama at Ex.P3, reveal that the ambulance which was proceeding from Siraguppa to Sindhanur in the East to West direction seem to have come on to the track of the lorry which was coming from the opposite

direction i.e. West to East. The dotted lines on the spot panchanama suggest that ambulance has swerved towards North-West direction. It is also relevant to refer to the IMV report at Ex.P4 with regard to the damage to the lorry as well as to the ambulance which is extracted hereunder;

Damages due to the impact:

Vehicle bearing registration No.AP-29/TA-1345,

Multiaxce goods vehicle i.e. Lorry.

- (a) Front left side portion damaged.*
- (b) Front bumper left side damaged.*
- (c) Radiator damaged.*
- (d) Front left side head lights and indicators damaged.*
- (e) Air cleaner damaged.*
- (f) Cabin left side portion damaged.*

The ambulance bearing registration No.KA-05/C-8689;

- (a) Front left side portion fully damaged.*
- (b) Front wind screen glass damaged.*

- (c) *Radiator damaged and engine damaged.*
- (d) *Front left side headlight, cabin, seats, door, platform damaged.*
- (e) *Front bumper left side damaged.*

31. The aforesaid contents of IMV report reveal that both the vehicles have sustained damage on to their left sides. There is also indication of damage to the bumper and radiator part of both the vehicles.

32. Except the aforesaid police records there is no other evidence available to appreciate the aspect of negligence. In appreciating and relying upon the police records in the claim petitions under M.V.Act, the Apex Court Apex Court in the case of ***Premlata Shukla*** (supra) at paragraph Nos.14 and 15 has held as under;

"13.However, the factum of an accident could also be proved from the first information report. It is also to be noted that once a part of the contents of the

document is admitted in evidence, the party bringing the same on record cannot be permitted to turn-round and contend that the other contents contained in the rest part thereof had not been proved. Both the parties have relied thereupon. It was marked as an exhibit as both the parties intended to rely upon it.

14. Once a part of it is relied upon by both the parties, the learned Tribunal cannot be said to have committed any illegality in relying upon the other part, irrespective of the contents of the document been proved or not. If the contents have been proved, the question of reliance thereupon only upon a part thereof and not upon the rest, on the technical ground that the same had not been proved in accordance with law, would not arise.

15. A party objecting to the admissibility of a document must raise its objection at the appropriate time. If the objection is not raised and the document is allowed to be marked and that too at the instance of a party which had proved the same and wherefore consent of the other party has been obtained, the former in our opinion cannot be permitted to turn round and raise a contention that the contents of the documents had not been proved and, thus, should not be relied upon. In Hukam Singh 1969 PLR 908, the law was correctly been laid down by the Punjab and Haryana High Court stating;

"(8) Mr. G.C. Mittal, learned counsel for the respondent contended that Ram Partap had produced only his former deposition and gave no evidence in Court which could be considered by the Additional District Judge. I am afraid there is no merit in this contention. The Trial Court had discussed the evidence of Ram Partap in the light of the report Exhibit D.1 produced by him. The Additional District Judge while hearing the appeal could have commented on that evidence and held it to be inadmissible if law so permitted. But he did not at all have this evidence before his mind. It was not a case of inadmissible evidence either. No doubt the procedure adopted by the trial Court in letting in a certified copy of the previous deposition of Ram Partap made in the criminal proceedings and allowing the same to be proved by Ram Partap himself was not correct and he should have been examined again in regard to all that he had stated earlier in the statement the parties in order to save time did not object to the previous deposition being proved by Ram Partap himself who was only cross-examined. It is not a case where irrelevant evidence had been let in with the consent of the parties but the only objection is that the procedure followed in the matter of giving evidence in Court was not correct. When the parties themselves have allowed certain statements to be placed on the record as a part of their evidence, it is not open to them to urge later either in the same Court

or in a court of appeal that the evidence produced was inadmissible. To allow them to do so would indeed be permitting them both to appropriate and reprobate."

33. Similarly, in the case of ***Rattani and Others***, stated (supra) the Hon'ble Apex Court at paragraph Nos.7 and 8 has held as under;

"7. We are not oblivious of the fact that ordinarily an allegation made in the first information would not be admissible in evidence per se but as the allegation made in the first information report had been made a part of the claim petition, there is no doubt whatsoever that the Tribunal and consequently the appellate courts would be entitled to look into the same.

34. Thus, with the available material on record referred to herein above and in the absence of any direct evidence, this Court is of the considered view that the driver of the ambulance in question seem to have swerved on to the right side of his track and came across the lorry and has contributed for the

accident. Considering the overall facts and circumstances, this Court is of the view that 75% of the negligence can be attributed on the driver of the ambulance while 25% of negligence can be attributed on the driver of the lorry. Thus the order of the tribunal apportioning the negligence requires to be modified accordingly.

35. **Regarding excess seating:** As regards the issue of ambulance carrying 12 persons along with dead body, admittedly seating capacity of ambulance is 5. Therefore, there is excess seating in the ambulance. Since the seating capacity is only 5 (4+1) including the driver, the insurance company will be liable to indemnify the insured to the extent of persons covered. It is clear from the reasoning of the impugned judgment rendered in MVC Nos.50/2013, 51/2013 and 52/2013 that the seating capacity of the ambulance was 5 persons and coverage of policy was

also for 5 persons which excludes the driver. Therefore, the Royal Sundaram Insurance Company shall not be liable to pay compensation in respect of excess number of passengers. However, the Insurance Company in the first instance pay the entire amount of compensation and then recover the amount paid in respect of excess number of passengers. In this regard, it is pertinent to refer to law laid down by the Apex Court in the case of ***United India Insurance Co. Ltd. Vs. K.M. Poonam & Others***, reported in ***2011 AIR SCW 2802***, wherein at paragraph Nos.24 to 27 has held as under:

"24. The liability of the insurer, therefore, is confined to the number of persons covered by the insurance policy and not beyond the same. In other words, as in the present case, since the insurance policy of the owner of the vehicle covered six occupants of the vehicle in question, including the driver, the liability of the insurer would be confined to six persons only, notwithstanding the larger number of persons carried in the vehicle. Such excess

number of persons would have to be treated as third parties, but since no premium had been paid in the policy for them, the insurer would not be liable to make payment of the compensation amount as far as they are concerned. However, the liability of the Insurance Company to make payment even in respect of persons not covered by the insurance policy continues under the provisions of sub-section (1) of Section 149 of the Act, as it would be entitled to recover the same if it could prove that one of the conditions of the policy had been breached by the owner of the vehicle. In the instant case, any of the persons travelling in the vehicle in excess of the permitted number of six passengers, though entitled to be compensated by the owner of the vehicle, would still be entitled to receive the compensation amount from the insurer, who could then recover it from the insured owner of the vehicle.

25. As mentioned hereinbefore, in the instant case, the insurance policy taken out by the owner of the vehicle was in respect of six passengers, including the driver, travelling in the vehicle in question. The liability for payment of the other passengers in excess of six passengers would be that of the owner of the vehicle who would be required to compensate the injured or the family of the deceased to the extent of compensation awarded by the Tribunal.

26. Having arrived at the conclusion that the liability of the Insurance Company to pay compensation was limited to six persons travelling inside the vehicle only and that the liability to pay the others was that of the owner, we, in this case, are faced with the same problem as had surfaced in Anjana Shyam's case (supra). The number of persons to be compensated being in excess of the number of persons who could validly be carried in the vehicle, the question which arises is one of apportionment of the amounts to be paid. Since there can be no pick and choose method to identify the five passengers, excluding the driver, in respect of whom compensation would be payable by the Insurance Company, to meet the ends of justice we may apply the procedure adopted in Baljit Kaur's case (supra) and direct that the Insurance Company should deposit the total amount of compensation awarded to all the claimants and the amounts so deposited be disbursed to the claimants in respect to their claims, with liberty to the Insurance Company to recover the amounts paid by it over and above the compensation amounts payable in respect of the persons covered by the Insurance Policy from the owner of the vehicle, as was directed in Baljit Kaur's case.

27. In other words, the Appellant Insurance Company shall deposit with the Tribunal

the total amount of the amounts awarded in favour of the awardees within two months from the date of this order and the same is to be utilized to satisfy the claims of those claimants not covered by the Insurance Policy along with the persons so covered. The Insurance Company will be entitled to recover the amounts paid by it, in excess of its liability, from the owner of the vehicle, by putting the decree into execution. For the aforesaid purpose, the total amount of the six Awards which are the highest shall be construed as the liability of the Insurance Company. After deducting the said amount from the total amount of all the Awards deposited in terms of this order, the Insurance Company will be entitled to recover the balance amount from the owner of the vehicle as if it is an amount decreed by the Tribunal in favour of the Insurance Company. The Insurance Company will not be required to file a separate suit in this regard in order to recover the amounts paid in excess of its liability from the owner of the vehicle."

36. In the light of the aforesaid provisions of law, respondent No.4-Royal insurance company, who has issued insurance policy in respect of Ambulance shall in the first instance liable to pay the amount of

compensation to all the occupants of the Ambulance and thereafter recover the amount of compensation in excess over and above the amount payable in respect of persons covered by the insurance policy from the owner of the Ambulance in terms of the law laid down by the Apex Court in *K.M.Poonam's* case supra.

37. For foregoing reasons and analysis, the following;

ORDER

- (a) The appeals and the Cross-objections filed by the claimants are allowed in part.
- (b) The claimants in MVC No.145/2013 are held entitled for compensation of Rs.12,42,060/- as against Rs.7,37,000/- awarded by the tribunal.
- (c) The claimants in MVC No.147/2013 are held entitled for compensation of Rs.14,20,472/-

as against Rs.9,19,800/- awarded by the tribunal.

- (d) The claimants in MVC No.149/2013 are held entitled for compensation of Rs.10,52,800/- as against Rs.8,71,200/- awarded by the tribunal.
- (e) The claimants in MVC No.150/2013 are held entitled for compensation of Rs.10,52,800/- as against Rs.6,91,000/- awarded by the tribunal.
- (f) The claimants in MVC No.152/2013 are held entitled for compensation of Rs.10,52,800/- as against Rs.6,91,000/- awarded by the tribunal.
- (g) The claimants in MVC Nos.144/2013 and 151/2013 are held entitled for global compensation of Rs.4,70,000/- as against Rs.90,000/- awarded by the tribunal.

- (h) The claimants in MVC Nos. 146/2013 and 148/2013 are held entitled for global compensation of Rs.4,70,000/- as against Rs.1,80,000/- awarded by the tribunal.
- (i) Cross-objectors in MFA.Crob.200008/2021 are held entitled for a total compensation of Rs.14,58,500/- as against Rs.8,34,750/- awarded by the Tribunal.
- (j) Cross-objectors in MFA.Crob.200009/2021 are held entitled for a total compensation of Rs.10,96,452/- as against Rs.4,31,000/- awarded by the Tribunal.
- (k) Cross-objectors in MFA.Crob.200010/2021 are held entitled for a total compensation of Rs.10,96,452/- as against Rs.6,43,400/- awarded by the Tribunal.
- (l) Enhanced compensation amount shall carry interest at 6% p.a. from the date of claim petition till its realization.
- (m) The appeals filed by the respondent No.2-Cholamandalam Insurance Company are also allowed in part.

- (n) Respondent No.2-Cholamandalam Insurance Company is stated to have deposited 50% of the compensation amount awarded by the Tribunal. In view of this Court holding that the driver of the lorry is responsible in contributing to the accident to the extent of 25% of negligence, out of 50% of the amount so deposited, a portion of the same be apportioned to satisfy 25% of the enhanced compensation with interest at 6% p.a. awarded to the claimants by this order and balance, if any shall be refunded to the respondent No.2-Insurance Company.
- (o) The appellant-respondent No.4 shall be liable to pay 75% of the award amount with interest at 6% per annum from the date of petition till realization.
- (p) The appeals filed by respondent No.4 are hereby dismissed.

- (q) The enhanced award amount shall be paid/deposited by respondent Nos.2 and 4 within a period of eight weeks from the date of the receipt of a certified copy of this judgment.
- (r) The amount in deposit shall be transmitted to the tribunal forthwith.

**Sd/-
JUDGE**

Srt/msr