

IN THE HIGH COURT OF KARNATAKA

CIRCUIT BENCH AT DHARWAD

DATED THIS THE 29TH DAY OF MARCH, 2012

BEFORE

THE HON'BLE MR.JUSTICE SUBHASH B. ADI

MFA No.22303/2009 (MV) c/w
MFA Nos. 22298/2009, 22300/2009, 22301/2009,
22302/2009, 22304/2009, 22305/2009, 22306/2009,
22307/2009, 22308/2009, 22344/2009, 22362/2009,
22363/2009, 22299/2009 and 22309/2009.

IN MFA No.22303/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company
Limited, Divisional Office,
Bilgundi Mansion, Station Road,
Gulburga, Represented by its
Divisional Manager,
The National Insurance Company
Ltd., Sujatha Complex,
P.B.Road, Hubli.

(By Sri S.K.Kayakamath, Adv.)

... Appellant

AND.

1. Suresh, S/o Basanagouda Halakeri,
Age: 51 years, Occ: Agriculture- cum-
Kirana Merchant, R/o Sirur Village,
Taluk: Yelburga, Dist: Koppal.

2. Smt. TMT P.Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367, R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)
3. United India Insurance Company
Ltd., Peramanar Main Road,
Salem-636006 (Insurer of Truck
No.TN-27/P-4367, Policy No.
170800/31/0206017 valid
31.3.2002 to 30.3.2004)
4. Nagaraj, S/o Rangaswamy Bandi,
Age: Major, Occ: Owner of Maxi Cab
Bearing No.KA-25/A-1706,
R/o Mangalore, Tq. Yelburga,
Dist: Koppal.

...Respondents

(By Sri B. Sharanabasava, Adv. for R-1;
Sri Ravindra R. Mane, Adv. for R-3;
R-2 to R-4 served)

This MFA is filed under Section 173(1) of the MV Act, against the judgment and order dated 04.02.2009 passed in MVC No.478/2006 on the file of the Addl. MACT and Fast Track Court-1, Koppal, awarding compensation of Rs.2,67,200/- along with interest at the rate of 6% p.a. from the date of petition till its deposit.

IN MFA No.22298/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company

Limited, Divisional Office,
Bilgundi Mansion, Station Road,
Gulburga, Represented by its
Divisional Manager,
The National Insurance Company
Ltd., Sujatha Complex,
P.B.Road, Hubli.

(By Sri S.K.Kayakamath, Adv.)

... Appellant

AND:

1. Basavaraj, S/o Shankarappa Arakeri,
Age: 16 years, Minor U/G of his natural
Father Shankarappa,
S/o Kenchareddeppa Arakeri,
Age: 48 years, Occ: Agriculture,
R/o Shirur, Tq. Yelburga,
Dist: Koppal.
2. Smt. TMT P.Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367, R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)
3. United India Insurance Company
Ltd., Peramanar Main Road,
Salem-636006 (Insurer of Truck
No.TN-27/P-4367, Policy No.
170800/31/0206017 valid
31.3.2002 to 30.3.2004)
4. Nagaraj, S/o Rangaswamy Bandi,
Age: Major, Occ: Owner of Maxi Cab
Bearing No.KA-25/A-1706,

R/o Mangalore, Tq. Yelburga,
Dist: Koppal.

...Respondents

(By Sri B.Sharanabasava, Adv. for R-1;
Sri Ravindra R. Mane, Adv. for R-3;
R-2 and R-4 served)

This MFA is filed under Section 173(1) of the MV Act, against the judgment and order dated 04.02.2009 passed in MVC No.236/2006 on the file of the Addl. MACT and Fast Track Court-I, Koppal, awarding compensation of Rs.35,000/- along with interest at the rate of 6% p.a. from the date of petition till its deposit.

IN MFA No.22300/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company
Limited, Divisional Office,
Bilgundi Mansion, Station Road,
Gulburga, Represented by its
Divisional Manager,
The National Insurance Company
Ltd., Sujatha Complex,
P.B.Road, Hubli.

(By Sri S.K.Kayakamath, Adv.)

... Appellant

AND:

1. Kotresh, S/o Mudiyyappa Benakal,
Age: 16 years, Minor U/G of his natural
Father Mudiyyappa,
S/o Shekappa, Age: 36 years,

Occ: Agriculture,
R/o Shirur, Tq. Yelburga,
Dist: Koppal.

2. Smt. TMT P.Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367, R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)
3. United India Insurance Company
Ltd., Peramanar Main Road,
Salem-636006 (Insurer of Truck
No.TN-27/P-4367, Policy No.
170800/31/0206017 valid
31.3.2002 to 30.3.2004)
4. Nagaraj, S/o Rangaswamy Bandi,
Age: Major, Occ: Owner of Maxi Cab
Bearing No.KA-25/A-1706,
R/o Mangalore, Tq. Yelburga,
Dist: Koppal.

...Respondents

(By Sri B.Sharanabasava, Adv. for R-1;
Sri Ravindra R. Mane, Adv. for R-3;
R-2 and R-4 served)

This MFA is filed under Section 173(1) of the MV Act,
against the judgment and order dated 04.02.2009 passed in
MVC No.238/2006 on the file of the Addl. MACT and Fast
Track Court-I, Koppal, awarding compensation of Rs.80,000/-
along with interest at the rate of 6% p.a. from the date of
petition till its deposit.

IN MFA No.22301/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company
Limited, Divisional Office,
Bilgundi Mansion, Station Road,
Gulburga, Represented by its
Divisional Manager,
The National Insurance Company
Ltd., Sujatha Complex,
P.B.Road, Hubli.

... Appellant

(By Sri S.K.Kayakamath, Adv.)

AND:

1. Kum. Matengevva, D/o Ramappa Pujari,
Age: 16 years, Minor and U/G of her natural
Father Ramappa, S/o Erappa Pujari,
Age: 46 years, Occ: Agriculture,
R/o Shirur, Tq. Yelburga,
Dist: Koppal.
2. Smt. TMT P.Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367, R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)
3. United India Insurance Company
Ltd., Peramanar Main Road,
Salem-636006 (Insurer of Truck
No.TN-27/P-3367, Policy No.
170800/31/0206017 valid
31.3.2003 to 30.3.2004)

4. Nagaraj, S/o Rangaswamy Bandi,
Age: Major, Occ: Owner of Maxi Cab
Bearing No.KA-25/A-1706,
R/o Mangalore, Tq. Yelburga,
Dist: Koppal.

...Respondents

(By Sri B.Sharanabasava, Adv. for R-1;
Sri Ravindra R. Mane, Adv. for R-3;
R-2 and R-4 served)

This MFA is filed under Section 173(1) of the MV Act, against the judgment and order dated 04.02.2009 passed in MVC No.239/2006 on the file of the Addl. MACT and Fast Track Court-I, Koppal, awarding compensation of Rs.35,000/- along with interest at the rate of 6% p.a. from the date of petition till its deposit.

IN MFA No.22302/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company
Limited, Divisional Office,
Bilgundi Mansion, Station Road,
Gulburga, Represented by its
Divisional Manager,
The National Insurance Company
Ltd., Sujatha Complex,
P.B.Road, Hubli.

(By Sri S.K.Kayakamath, Adv.)

... Appellant

AND:

1. Peersab, S/o GareebSab Dafedar,
Age: 33 years, Occ: Teacher,
R/o Shirur village, Tq. Yelburga,
Dist: Koppal.
2. Smt. TMT P.Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367, R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)
3. United India Insurance Company
Ltd., Peramanar Main Road,
Salem-636006 (Insurer of Truck
No.TN-27/P-4367, Policy No.
170800/31/0206017 valid
31.3.2002 to 30.3.2004)
4. Nagaraj, S/o Rangaswamy Bandi,
Age: Major, Occ: Owner of Maxi Cab
Bearing No.KA-25/A-1706,
R/o Mangalore, Tq. Yelburga,
Dist: Koppal.

...Respondents

(By Sri Ravindra R. Mane, Adv. for R-3)

This MFA is filed under Section 173(1) of the MV Act, against the judgment and order dated 04.02.2009 passed in MVC No.477/2006 on the file of the Addl. MACT and Fast Track Court-I, Koppal, awarding compensation of Rs.37,800/- along with interest at the rate of 6% p.a. from the date of petition till its deposit.

IN MFA No.22304/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company
Limited, Divisional Office,
Bilgundi Mansion, Station Road,
Gulburga, Represented by its
Divisional Manager,
The National Insurance Company
Ltd., Sujatha Complex,
P.B.Road, Hubli.

... Appellant

(By Sri S.K.Kayakamath, Adv.)

AND:

1. Veeresh, S/o Hanumappa Hubballi,
Age: 15 years, Occ: Student,
R/o Sirur village, Minor U/G of his
Next friend mother Smt. Mahadevamma,
W/o Hanumappa Hubballi, Age: 45 years,
Occ: Household, R/o Sirur, Taluk: Yelburga,
2. Smt. TMT P.Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367, R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)
3. United India Insurance Company
Ltd., Peramanar Main Road,
Salem-636006 (Insurer of Truck
No.TN-27/P-4367, Policy No.
170800/31/0206017 valid
31.3.2002 to 30.3.2004)

4. Nagaraj, S/o Rangaswamy Bandi,
Age: Major, Occ: Owner of Maxi Cab
Bearing No.KA-25/A-1706,
R/o Mangalore, Tq. Yelburga,
Dist: Koppal.

...Respondents

(By Sri B.Sharanabasava, Adv. for R-1,
Sri Ravindra R. Mane, Adv. for R-3;
R-2 and R-4 served)

This MFA is filed under Section 173(1) of the MV Act, against the judgment and order dated 04.02.2009 passed in MVC No.479/2006 on the file of the Addl. MACT and Fast Track Court-I, Koppal, awarding compensation of Rs.73,000/- along with interest at the rate of 6% p.a. from the date of petition till its deposit.

IN MFA No.22305/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company
Limited, Divisional Office,
Bilgundi Mansion, Station Road,
Gulburga, Represented by its
Divisional Manager,
The National Insurance Company
Ltd., Sujatha Complex,
P.B.Road, Hubli.

... Appellant

(By Sri S.K.Kayakamath, Adv.)

AND:

1. Prashanth, S/o Basavaraj Rader,
Age: 16 years, Occ: Student,
R/o Sirur village, Tq. Yelburga,
Minor U/G of his next friend
Basanagouda, S/o Linganagouda Somanagoudar,
Age: 37 years, Occ: Agril., R/o Sirur,
Tq. Yelburga,
2. Smt. TMT P.Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367, R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)
3. United India Insurance Company
Ltd., Peramanar Main Road,
Salem-636006 (Insurer of Truck
No.TN-27/P-4367, Policy No.
170800/31/0206017 valid
31.3.2002 to 30.3.2004)
4. Nagaraj, S/o Rangaswamy Bandi,
Age: Major, Occ: Owner of Maxi Cab
Bearing No.KA-25/A-1706,
R/o Mangalore, Tq. Yelburga,
Dist: Koppal.

...Respondents

(By Sri B.Sharanabasava, Adv. for R-1;

Sri Ravindra R. Mane, Adv. for R-3; R-2 and R-4 served)

This MFA is filed under Section 173(1) of the MV Act, against the judgment and order dated 04.02.2009 passed in MVC No.480/2006 on the file of the Addl. MACT and Fast Track Court-I, Koppal, awarding compensation of Rs.33,000/- along with interest at the rate of 6% p.a. from the date of petition till its deposit.

IN MFA No.22306/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company
Limited, Divisional Office,
Bilgundi Mansion, Station Road,
Gulburga, Represented by its
Divisional Manager,
The National Insurance Company
Ltd., Sujatha Complex,
P.B.Road, Hubli.

... Appellant

(By Sri S.K.Kayakamath, Adv.)

AND:

1. Prashanth, S/o Chinnappa Angadi,
Age: 16 years, Occ: Student,
R/o Sirur village, Tq. Yelburga,
Minor U/G of his next friend-father
Chinnappa, S/o Mallikarjunappa Angadi,
Age: 45 years, Occ: Employee in
GESCOM (KEB), R/o Sirur,
Tq. Yelburga, Dist: Koppal.
2. Smt. TMT P.Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367, R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)
3. United India Insurance Company
Ltd., Peramanar Main Road,
Salem-636006 (Insurer of Truck
No.TN-27/P-4367, Policy No.

170800/31/0206017 valid
31.3.2002 to 30.3.2004)

4. Nagaraj, S/o Rangaswamy Bandi,
Age: Major, Occ: Owner of Maxi Cab
Bearing No.KA-25/A-1706,
R/o Mangalore, Tq. Yelburga,
Dist: Koppal.

...Respondents

(By Sri B.Sharanabasava, Adv. for R-1;
Sri Ravindra R. Mane, Adv. for R-3;
R-2 and R-4 served)

This MFA is filed under Section 173(1) of the MV Act, against the judgment and order dated 04.02.2009 passed in MVC No.481/2006 on the file of the Addl. MACT and Fast Track Court-I, Koppal, awarding compensation of Rs.28,000/- along with interest at the rate of 6% p.a. from the date of petition till its deposit.

IN MFA No.22307/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company
Limited, Divisional Office,
Bilgundi Mansion, Station Road,
Gulburga, Represented by its
Divisional Manager,
The National Insurance Company
Ltd., Sujatha Complex,
P.B.Road, Hubli.

(By Sri S.K.Kayakamath, Adv.)

... Appellant

AND:

1. Kum. Soumya, D/o Somashekhar Ballolli,
Age: 15 years, Occ: Student,
R/o Sirur village, Tq. Yelburga,
Minor U/G of his next friend
Somashekhar, S/o Fakeerappa Ballolli,
Age: 48 years, Occ: Employee in Syndicate
Bank, Br. Kukanoor, R/o Sirur,
Tq. Yelburga, Dist: Koppal.
2. Smt. TMT P.Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367. R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)
3. United India Insurance Company
Ltd., Peramanar Main Road,
Salem-636006 (insurer of Truck
No.TN-27/P-4367, Policy No.
170800/31/0206017 valid
31.3.2002 to 30.3.2004)
4. Nagaraj, S/o Rangaswamy Bandi,
Age: Major, Occ: Owner of Maxi Cab
Bearing No.KA-25/A-1706,
R/o Mangalore, Tq. Yelburga,
Dist. Koppal.

...Respondents

(By Sri B.Sharanabasava, Adv. for R-1;
Sri Ravindra R. Mane, Adv. for R-3;
R-2 and R-4 served)

This MFA is filed under Section 173(1) of the MV Act,
against the judgment and order dated 04.02.2009 passed in
MVC No.485/2006 on the file of the Addl. MACT and Fast

Track Court-I, Koppal, awarding compensation of Rs.70,000/- along with interest at the rate of 6% p.a. from the date of petition till its deposit.

IN MFA No.22308/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company
Limited, Divisional Office,
Bilgundi Mansion, Station Road,
Gulbarga, Represented by its
Divisional Manager,
The National Insurance Company
Ltd., Sujatha Complex,
P.B.Road, Hubli.

... Appellant

(By Sri S.K.Kayakamath, Adv.)

AND:

1. Manjunath, S/o Sureshgouda Halakeri,
Age: 15 years, Occ: Student,
R/o Sirur village, Tq. Yelburga,
Minor U/G of his next friend-father
Sureshgouda, S/o Basanagouda Halakeri,
Age: 48 years, Occ: Agril and business,
R/o Sirur, Tq. Yelburga, Dist: Koppal.
2. Smt. TMT P Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367, R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)

3. United India Insurance Company Ltd., Peramanar Main Road, Salem-636006 (Insurer of Truck No.TN-27/P-4367, Policy No. 170800/31/0206017 valid 31.3.2002 to 30.3.2004)
4. Nagaraj, S/o Rangaswamy Bandi, Age: Major, Occ: Owner of Maxi Cab Bearing No.KA-25/A-1706, R/o Mangalore, Tq. Yelburga, Dist: Koppal.

...Respondents

(By Sri B.Sharanabasava, Adv. for R-1;
Sri Ravindra R. Mane, Adv. for R-3; R-2 and R-4 served)

This MFA is filed under Section 173(1) of the MV Act, against the judgment and order dated 04.02.2009 passed in MVC No.486/2006 on the file of the Addl. MACT and Fast Track Court-I, Koppal, awarding compensation of Rs.45,000/- along with interest at the rate of 6% p.a. from the date of petition till its deposit.

IN MFA No.22344/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company Limited, Divisional Office, Bilgundi Mansion, Station Road, Gulburga, Represented by its Divisional Manager,
The National Insurance Company Ltd., Sujatha Complex, P.B.Road, Hubli.

... Appellant

(By Sri S.K.Kayakamath, Adv.)

AND:

1. Kum. Savitri, D/o Irappa Bangari,
Age: 15 years, Occ: Student,
R/o Sirur village, Tq. Yelburga,
Minor U/G of her next friend-father
Irappa, S/o Bheemappa Bangari,
Age: 39 years, Occ: Coolie, R/o Sirur,
Tq. Yelburga,
2. Smt. TMT P.Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367, R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)
3. United India Insurance Company
Ltd., Peramanar Main Road,
Salem-636006 (Insurer of Truck
No.TN-27/P-4367, Policy No.
170800/31/0206017 valid
31.3.2002 to 30.3.2004)
4. Nagaraj, S/o Rangaswamy Bandi,
Age: Major, Occ: Owner of Maxi Cab
Bearing No.KA-25/A-1706,
R/o Mangalore, Tq. Yelburga,
Dist: Koppal.

...Respondents

(By Sri B.Sharanabasava, Adv. for R-1;
Sri Ravindra R. Mane, Adv. for R-3;
R-2 and R-4 served)

This MFA is filed under Section 173(1) of the MV Act,
against the judgment and order dated 04.02.2009 passed in
MVC No.482/2006 on the file of the Addl. MACT and Fast

Track Court-I, Koppal, awarding compensation of Rs.45,000/- along with interest at the rate of 6% p.a. from the date of petition till its deposit.

IN MFA No.22362/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company
Limited, Divisional Office,
Bilgundi Mansion, Station Road,
Gulburga, Represented by its
Divisional Manager,
The National Insurance Company
Ltd., Sujatha Complex,
P.B.Road, Hubli.

... Appellant

(By Sri S.K.Kayakamath, Adv.)

AND:

1. Kum. Shruti, D/o Virupakshagouda Hiregoudar,
Age: 15 years, Occ: Student,
R/o Sirur village, Tq. Yelburga,
Minor U/G of his next friend-father
Virupakshagouda, S/o Mudakanagouda Hiregoudar,
Age: 36 years, Occ: Agril., R/o Sirur,
Tq. Yelburga, Dist: Koppal.
2. Smt. TMT P.Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367, R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)

3. United India Insurance Company Ltd., Peramanar Main Road, Salem-636006 (Insurer of Truck No.TN-27/P-4367, Policy No. 170800/31/0206017 valid 31.3.2003 to 30.3.2004)
4. Nagaraj, S/o Rangaswamy Bandi, Age: Major, Occ: Owner of Maxi Cab Bearing No.KA-25/A-1706, R/o Mangalore, Tq. Yelburga, Dist: Koppal.

...Respondents

(By Sri B.Sharanabasava, Adv. for R-1;
Sri Ravindra R. Mane, Adv. for R-3; R-2 and R-4 served)

This MFA is filed under Section 173(1) of the MV Act, against the judgment and order dated 04.02.2009 passed in MVC No.483/2006 on the file of the Addl. MACT and Fast Track Court-I, Koppal, awarding compensation of Rs.45,000/- along with interest at the rate of 6% p.a. from the date of petition till its deposit.

IN MFA No.22363/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company Limited, Divisional Office, Bilgundi Mansion, Station Road, Gulburga, Represented by its Divisional Manager,
The National Insurance Company Ltd., Sujatha Complex, P.B.Road, Hubli.

... Appellant

(By Sri S.K.Kayakamath, Adv.)

AND:

1. Devendrappa, S/o Shekharappa Madinoor,
Age: 15 years, Occ: Student,
R/o Sirur village, Tq. Yelburga,
Minor U/G of his next friend-
Father/mother Smt. Gangamma,
W/o Shekarappa Madinoor,
Age: 40 years, Occ: Household,
R/o Sirur, Tq. Yelburga, Dist: Koppal.
2. Smt. TMT P.Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367, R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)
3. United India Insurance Company
Ltd., Peramanar Main Road,
Salem-636006 (Insurer of Truck
No.TN-27/P-4367, Policy No.
170800/31/02/06017 valid
31.3.2002 to 30.3.2004)
4. Nagaraj, S/o Rangaswamy Bandi,
Age: Major, Occ: Owner of Maxi Cab
Bearing No.KA-25/A-1706,
R/o Mangalore, Tq. Yelburga,
Dist: Koppal.

...Respondents

(By Sri B.Sharanabasava, Adv. for R-1;
R-2 to R-4 served)

This MFA is filed under Section 173(1) of the MV Act,
against the judgment and order dated 04.02.2009 passed in
MVC No.484/2006 on the file of the Addl. MACT and Fast

Track Court-I, Koppal, awarding compensation of Rs.22,000/- along with interest at the rate of 6% p.a. from the date of petition till its deposit.

IN MFA No.22299/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company
Limited, Divisional Office,
Bilgundi Mansion, Station Road,
Gulburga, Represented by its
Divisional Manager,
The National Insurance Company
Ltd., Sujatha Complex,
P.B.Road, Hubli.

... Appellant

(By Sri S.K.Kayakamath, Adv.)

AND:

1. Riyana, D/o Khajesab Angadi,
Age: 16 years, Occ: Student,
Minor U/G of his natural father
Khajesab, S/o Akbarsab Angadi,
Age: 46 years, Occ: Agril., R/o Shirur,
Tq. Yelburga, Dist: Koppal.
2. Smt. TMT P.Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367, R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)
3. United India Insurance Company
Ltd., Peramanar Main Road,

Salem-636006 (Insurer of Truck
No.TN-27/P-4367, Policy No.
170800/31/0206017 valid
31.3.2002 to 30.3.2004)

4. Nagaraj, S/o Rangaswamy Bandi,
Age: Major, Occ: Owner of Maxi Cab
Bearing No.KA-25/A-1706,
R/o Mangalore, Tq. Yelburga,
Dist: Koppal.

... Respondents

(By Sri B.Sharanabasava, Adv. for R-1;
Sri Ravindra R. Mane, Adv. for R-3;
R-2 and R-4 served)

This MFA is filed under Section 173(1) of the MV Act, against the judgment and order dated 04.02.2009 passed in MVC No.237/2006 on the file of the Addl. MACT and Fast Track Court-I, Koppal, awarding compensation of Rs.45,000/- along with interest at the rate of 6% p.a. from the date of petition till its deposit.

IN MFA No.22309/2009:

BETWEEN:

The Divisional Manager,
The National Insurance Company
Limited, Divisional Office,
Bilgundi Mansion, Station Road,
Gulburga, Represented by its
Divisional Manager,
The National Insurance Company
Ltd., Sujatha Complex,
P.B.Road, Hubli.

... Appellant

(By Sri S.K.Kayakamath, Adv.)

AND:

1. Basavaraj Satyappa Chalawadi,
Age: 41 years, Occ: Teacher,
R/o Sirur, Taluk. Yelburga,
Dist: Koppal.
2. Smt. TMT P.Pushpa, W/o P. Mohan,
Age: Major, Occ: Business & Owner of
Truck No.TN-27/P-4367, R/o
No.D.No.4-A/27, P.P.Road,
Selam-1 (T.N.)
3. United India Insurance Company
Ltd., Peramanar Main Road,
Salem-636006 (Insurer of Truck
No.TN-27/P-4367, Policy No.
170800/31/0206017 valid
31.3.2002 to 30.3.2004)
4. Nagaraj, S/o Rangaswamy Bandi,
Age: Major, Occ: Owner of Maxi Cab
Bearing No.KA-25/A-1706,
R/o Mangalore, Tq. Yelburga,
Dist: Koppal.

...Respondents

(By Sri B.Sharanabasava, Adv. for R-1)
Sri Ravindra R. Mane, Adv. for R-3)

This MFA is filed under Section 173(1) of the MV Act, against the judgment and order dated 04.02.2009 passed in MVC No.487/2006 on the file of the Addl. MACT and Fast Track Court-I, Koppal, awarding compensation of Rs.65,185/- along with interest at the rate of 6% p.a. from the date of petition till its deposit.

These MFAs coming on for orders, this day, the Court delivered the following:

JUDGMENT

All these appeals are by the insurer questioning the liability in MVC Nos.478/2006 and connected matters disposed of on 04.02.2009 on the file of the MACT, Koppal.

2. The claimants were travelling in a maxi cab bearing registration No.KA-25/A-1706. On account of rash and negligent driving of the lorry bearing No. TN-27/P-4367 which came from opposite and dashed against the maxi cab, claimants sustained injuries. Several claim petitions were filed before the Tribunal. The Tribunal by common judgment and award, has allowed the claim petitions and awarded compensation.

3. Before the Tribunal, contention was raised that the maxi cab had a permit to carry only 12 passengers, however, the cab was carrying 50 passengers and as such there is clear violation of the terms and conditions of the insurance policy.

S. S. S.

In view of the same, insurer contended that he is not liable to indemnify the liability. It is also contended that the driver of the maxi cab had no valid licence to drive the vehicle in question.

4. The Tribunal, considering these objections, held insurer liable to pay compensation. It is against this finding, these appeals are filed. The Tribunal, considering these things and also considering the negligence, has fixed 50% liability on each of the vehicle.

5. Having regard to the first contention that the maxi cab was carrying passengers beyond the permitted limit, in similar circumstances, the Apex Court in a judgment reported in **ACJ 2011 SC 917** in the matter of **United India Insurance Company Limited vs. K.M.Poonam and others** has observed that 'in a public transport vehicle carrying passengers more than the permitted limit, liability of the insurance company to pay compensation is not limited to the passengers permitted to travel in the vehicle, but also it is

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liable to pay compensation in respect of excess passengers travelling in the vehicle. However, insurer can recover the amount for the remaining excess passengers from the owner.

6. Having regard to the decision of the Apex Court and having regard to the fact that the passengers and third party, they cannot be expected to go against the owner. In these circumstances, I find no merit in the contentions urged by the learned counsel for the appellant/insurer.

7. As regard to the second contention is concerned, though such vague contention is raised, no effort is made to show that the licence was expired and no material is placed on record. Hence, I find no merit to consider the said contention. In the result, appeal fails and stands dismissed. However, it is made clear that in view of the Supreme Court decision, it is open to the insurer to recover the amount.

8. In view of the dismissal of the appeals, Misc. Cvl. Nos. 104973, 104963, 104967, 104969, 104971, 104976, 104978,



104980, 104982, 104984, 105110, 105132, 105134, 104965 and 104986/2009 stands dismissed. Also, taking steps is dispensed with.

8. The amount in deposit in all the above appeals is ordered to be transferred to the Tribunal.

Sd/-
JUDGE

mkc