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IN THE HIGH COURT OF KARNATAKA

CIRCUIT BENCH AT DHARWAD

DATED THIS THE 09<sup>TH</sup> DAY OF APRIL, 2012

BEFORE

THE HON'BLE MR.JUSTICE SUBHASH B. ADI

MFA No.20942/2008

C/W

MFA Nos. 20940/2008, 20941/2008(WC)

MFA No. 20942/2008,

BETWEEN

M/S. UNITED INDIA INSURANCE CO. LTD.,  
REPRESENTED BY ITS DIVISIONAL MANAGER,  
DIVISIONAL OFFICE, MARUTI GALLI,  
BELGAUM.

... APPELLANT

(BY SRI.M.G.GADGOLI, ADV.,)

AND

1. SRI.HANAMAPPA S/O.BHIMAPPA NAIK,  
AGE:41 YEARS, OCC: LABOUR,  
R/O. MANTUR, TAL:MUDHOL,  
DIST: BAGALKOT.
2. SRI.MALLAPPA S/O.BASALINGAPPA MODI,  
AGE: MAJOR, OCC: OWNER OF VEHICLE(BUSINESS)  
R/O. LOKAPUR, TQ: MUDHOL,  
BAGALKOT DISTRICT.

... RESPONDENTS

(BY SRI. : SIDDAPPA S. SAJJAN, ADV. FOR C/R1)

MFA FILED U/S 30(1) OF THE WORKMEN'S  
COMPENSATION ACT, AGAINST THE JUDGMENT AND AWARD  
DATED 26/06/2008 PASSED IN WCA/NF.NO.328/2007 ON  
THE FILE OF THE LABOUR OFFICER AND COMMISSIONER

FOR WORKMEN COMPENSATION, BAGALKOT DISTRICT,  
BAGALKOT, AWARDING COMPENSATION OF Rs.1,32,602/-  
WITH THE INTEREST AT THE RATE OF 12% P.A.

MFA No. 20940/2008,

BETWEEN

M/S. UNITED INDIA INSURANCE CO. LTD.,  
REPRESENTED BY ITS DIVISIONAL MANAGER,  
DIVISIONAL OFFICE, MARUTI GALLI,  
BELGAUM.

... APPELLANT

(BY SRI.M.G.GADGOLI, ADV.,)

AND

1. SRI.LAXMAN S/O. RAMAPPA MELLIGERI  
AGE: 22 YEARS, OCC: LABOUR,  
R/O. BUDNI P.M., TAL:MUDHOL,  
DIST:BAGALKOT.
2. SRI.MALLAPPA S/O. BASALINGAPPA MODI,  
AGE: MAJOR, OCC: OWNER OF VEHICLE (BUSINESS),  
R/O. LOKAPUR, TQ: MUDHOL,  
BAGALKOT DISTRICT.

... RESPONDENTS

(BY SRI. : SIDDAPPA S. SAJJAN, ADV. FOR C/R1)

MFA FILED U/S 30(1) OF THE WORKMEN'S  
COMPENSATION ACT, AGAINST THE JUDGMENT AND AWARD  
DATED 26/06/2008 PASSED IN WCA/NF.NO.326/2007 ON  
THE FILE OF THE LABOUR OFFICER AND COMMISSIONER  
FOR WORKMEN COMPENSATION, BAGALKOT DISTRICT,  
BAGALKOT, AWARDING COMPENSATION OF Rs.1,60,351/-  
WITH THE INTEREST AT THE RATE OF 12% P.A.

MFA No. 20941/2008,

BETWEEN

M/S. UNITED INDIA INSURANCE CO. LTD.,  
 REPRESENTED BY ITS DIVISIONAL MANAGER,  
 DIVISIONAL OFFICE, MARUTI GALLI,  
 BELGAUM.

... APPELLANT

(BY SRI.M.G.GADGOLI, ADV.,)

AND

1. SRI.SHAM S/O. PARASAPPA GOOGI,  
 AGE: 23 YEARS, OCC: LABOUR,  
 R/O. LOKAPUR, TAL:MUDHOL,  
 DIST:BAGALKOT.

2. SRI.MALLAPPA S/O. BASALINGAPPA MODI,  
 AGE: MAJOR, OCC: OWNER OF VEHICLE (BUSINESS),  
 R/O. LOKAPUR, TQ: MUDHOL,  
 BAGALKOT DISTRICT.

... RESPONDENTS

(BY SRI. : SIDDAPPA S. SAJJAN, ADV. FOR C/R1)

MFA FILED U/S 30(1) OF THE WORKMEN'S  
 COMPENSATION ACT, AGAINST THE JUDGMENT AND AWARD  
 DATED 26/06/2008 PASSED IN WCA/NF.NO.327/2007 ON  
 THE FILE OF THE LABOUR OFFICER AND COMMISSIONER  
 FOR WORKMEN COMPENSATION, BAGALKOT DISTRICT,  
 BAGALKOT, AWARDED COMPENSATION OF Rs.1,59,386/-  
 WITH THE INTEREST AT THE RATE OF 12% P.A.

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

JUDGMENT

Though these appeals are listed for orders regarding  
 service of notice to respondent No.2, they are considered on  
 merit to find out as to whether notice to respondent No.2 is  
 necessary or not.

*S. G. Gadli*

2. These appeals are filed by the insurer against the judgement and award passed by the Commissioner for Workmen's Compensation, Bagalkot District, in WC.NF. Nos.326, 327 and 328 of 2007 dated 26.06.2008

3. It is the case of the claimants that they were working as Coolies in Lorry bearing No.KA-48/394 belonging to the first respondent in the claim petitions and on 28.06.2006, when they were proceeding towards Belgaum after loading onion and grains from Mantooru and other villages, on account of rash and negligent driving of the Lorry by its driver, the said Lorry met with an accident and claimants suffered injuries. To prove the same, apart from the oral evidence of the claimants, they also produced Exs.P1 to P<sup>2</sup> i.e., FIR, complaint, further statement of complainant, spot mahazar, wound certificate, IMV report, charge sheet, insurance policy etc.

4. The claim petitions were contested by the insurer inter alia alleging that the claimants were not coolies as Ex.P2 - complaint discloses that they were the owners of the goods travelling in mini Truck with seating capacity of 1 + 1

and as such, the insurer is not liable to pay the compensation.

5. The claim petitions were also contested on the ground that Doctor's evidence as regard to the disability sustained by the claimants cannot be accepted as there is no proportionality between the injury and disability.

6. These appeals are filed under Section 30 of the Workmen's Compensation Act.

7. It is not in dispute that no evidence was led by the insurer before the Commissioner for Workmen's Compensation. No doubt, Ex.P2, discloses that the claimants were travelling as owners of the goods in the Lorry. However, the complainant in his further statement recorded on the very next day of the accident as per Ex.P3 has stated that the injured were all coolies, who had come for loading of onions. The other documents produced by the claimants also establish that lorry was carrying goods and it met with an accident. The said evidence coupled with the evidence of the claimants prove that the injured were travelling in the goods Lorry as coolies. To the contrary, there is no material or

evidence led by the insurer to disbelieve the said evidence. In the absence of any evidence led by the insurer, no substantial question of law is involved in these appeals and I do not find any error in the finding arrived at by the Commissioner.

8. As far as disability taken by the Commissioner is concerned, the same is in consonance with the Doctor's evidence and no effort has been made by the insurer to dislodge the evidence of the Doctor. In view of these circumstances, the impugned judgement and award does not call for interference.

Hence, these appeals are dismissed.

The amount in deposit is ordered to be transferred to the Commissioner for Workmen's Compensation, Bagalkot.

Sd/-  
JUDGE