

IN THE HIGH COURT OF KARNATAKA,  
DHARWAD BENCH

DATED THIS THE 28<sup>TH</sup> DAY OF NOVEMBER 2013

BEFORE

THE HON'BLE MR. JUSTICE L. NARAYANA SWAMY

MFA No.20506/2009 (MV)

C/W

MFA. Nos.20775, 20773 AND 20774/2008

MFA NO.20506/2009

BETWEEN:

MOHAMMED SHARIF  
S/O ABDUL KHADAR KINNARI  
AGE: 25 YEARS, OCC MASON WORK  
R/O NEAR BUS STAND, HANGAL  
DIST HAVERI

...APPELLANT

(BY SRI VIJAYAKUMAR, B. HORATTI, ADV.)

AND

1. THE DIVISIONAL MANAGER  
NWKSRTC, SIRSI DEPOT  
CUSTODIAN OF THE KSRTC BUS  
BEARING NO KA 31/F 879  
RESIDENT OF SIRSI
2. THE DIVISIONAL MANAGER AND  
SELF INSURANCE AUTHORITY  
GOKUL ROAD, HUBLI
3. HAZARAT ALI S/O MODINSAB ALADKATTI  
AGE MAJOR, OCC BUSINESS AND

OWNER OF THE TEMPO BEARING NO  
KA 27/F 4214, R/O AREGOPPA  
TQ HANGAL, DIST HAVERI

4. THE DIVISIONAL MANAGER  
NEW INDIA ASSURANCE COMPANY LTD.  
SHAMNUR BULDG CHAMRAJ PETH

... RESPONDENTS

(BY SRI C B PATIL, ADV. FOR R1 )  
SRI V.R. DATAR, ADV. FOR R4)  
R3-NOTICE SERVED)

THIS APPEAL IS FILED UNDER SECTION 173(1) OF THE  
MOTOR VEHICLE ACT AGAINST THE JUDGMENT AND AWARD  
DATED 23.07.2008 PASSED IN MVC NO.235/2006 ON THE FILE  
OF THE CIVIL JUDGE (SR.DN.) & JMFC., AND AMACT, HANAGAL,  
PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION  
AND SEEKING ENHANCEMENT OF COMPENSATION.

MFA NO.20775/2008

THE DIVISIONAL CONTROLLER  
NWKRTC, SIRSI DN.  
REPT. BY C.L.O.  
NORTHE WEST KARNATAKA  
ROAD TRANSPORT CORPORATION  
CENTRAL OFFICE, GOKUL ROAD  
HUBLI

... APPELLANT

(BY SRI C B PATIL, ADV.)

AND

1. MOHAMMEDA SHARIF A KINNARI  
R/O NEAR BUS STAND  
HANGAL, TQ: HANGAL, DIST: HAVERI
2. HZARTALI S/O MODINSAB ALADAKATTI  
(OWNER OF TEMPO NO.KA 23/F-4214)

AT R/O AREGOPPA, TQ HANGAL  
DIST:HAVERI

3. THE DIVISIONAL MANAGER  
NEW INDIA ASSURANCE CO. LTD  
SHAMANUR BUILDING  
CHAMARAJPETH  
DAVANAGERE

... RESPONDENTS

(BY SRI V R DATAR, ADV. FOR R3 )

THIS APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLE ACT AGAINST THE JUDGMENT AND AWARD DATED 23.07.2008 PASSED IN MVC NO.236/2006 ON THE FILE OF THE CIVIL JUDGE (SR.DN.) & JMFC., AND AMACT, HANAGAL, AWARING A COMPENSATION OF RS.86,352/- WITH INTEREST @ 6% P.A. FROM THE DATE OF PETITION.

MFA NO.20773/2008

THE DIVISIONAL CONTROLLER  
NWKRTC, SIRSI DN.  
REPT. BY C.L.O.  
NORTHE WEST KARNATAKA  
ROAD TRANSPORT CORPORATION  
CENTRAL OFFICE, GOKUL ROAD  
HUBLI

... APPELLANT

(BY SRI C B PATIL, ADV.)

AND

1. KUMARI TAISENABANU I. SIDDI  
MINOR GUARDIAN, IMAMSAB, SIDDI  
NEAR BUS STAND, HANGAL  
TQ : HANGAL, DIST: HAVERI
2. HAZARTALI S/O MODINSAB ALADAKATTI  
(OWNER OF TEMPO.NO.KA 27/F-4214)

AT R/O AREGOPPA,TQ HANGAL  
DIST: HAVERI

3. THE DIVISIONAL MANAGER  
NEW INDIA ASSURANCE CO. LTD  
SHAMANUR BUILDING  
CHAMARAJPETH  
DAVANAGERE

... RESPONDENTS

(BY SRI VIJAYKUMAR B. HORATTI, ADV. FOR R1)  
(SRI LAXMAN B. MONNODDAR, ADV. FOR R3)

THIS APPEAL IS FILED UNDER SECTION 173(1) OF THE  
MOTOR VEHICLE ACT AGAINST THE JUDGMENT AND AWARD  
DATED 23.07.2008 PASSED IN MVC NO.234/2006 ON THE FILE  
OF THE CIVIL JUDGE (SR.DN.) & JMFC., AND AMACT,  
HANAGAL, AWARDDING A COMPENSATION OF RS.12,000/- WITH  
INTEREST @ 6% P.A. FROM THE DATE OF PETITION.

MFA NO.20774/2008

THE DIVISIONAL CONTROLLER  
NWKRTC, SIRSI DIVISION.  
SIRSI, REPT. BY ITS C.L.O.  
N.W.K.R.T.C. CENTRAL OFFICE  
GOKUL ROAD, HUBLI

... APPELLANT

(BY SRI C B PATIL, ADV.)

AND

1. SMT AKKAMMA W/O RAMESH NAIK  
AGE: 22 YEARS, OCC HOUSEHOLD
2. KUMARI BHARATI D/O RAMESH NAIK  
AGE: 3 YEARS
3. KUMARI POOJA,D/O RAMESH NAIK  
AGE: 2 YEARS

(PETITIONER 2 AND 3 ARE MINOR REP BY THEIR NEXT  
FRIEND MINOR GUARDIAN THEIR NATURAL  
MOTHER PETITION NO 1)  
R/AT GUNDUR  
TQ HANGAL DIST HAVERI

4. SMT GUMBLAVVA W/O HEGGAPPA NAIK  
AGE: 50 YEARS, OCC HOUSE HOLD  
R/O GUNDUR, TQ HANGAL
5. SRI HEGGAPPA SHESHAPPA NAIK  
AGE: 55 YEARS, OCC NIL  
R/O GUNDUR, TQ HANGAL
6. SRI HAZARTALI  
S/O MODINSAB ALADAKATTI  
R/O AT AREGOPPA  
TQ HANGAL DIST HAVERI  
OWNER OF TEMPO NO KA 23/F-4214
7. THE DIVISIONAL MANAGER  
NEW INDIA ASSURANCE CO.LTD  
SHAMANUR BUILDING  
CHAMARAJPETH  
DAVANGERE

... RESPONDENTS

(BY SRI. LAXMAN B. MANNODDAR, ADV. FOR R7)  
R1-R6-NOTICE SERVED )

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE  
JUDGMENT AND AWARD DATED:23/7/2008 PASSED IN MVC  
NO.28/2007 ON THE FILE OF THE CIVIL JUDGE(SR.DN) & JMFC,  
HANGAL, AWARDED COMPENSATION OF RS.6,66,999/- ALONG  
WITH INTEREST AT THE RATE OF 6% P.A. FROM THE DATE OF  
PETITION.

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

**JUDGMENT**

Sri. Laxman Mannodar, learned counsel is directed to take notice for respondent No.3 in MFA No.20773/2008

2. MFA No.20506/2009 is by the claimant seeking enhancement of compensation awarded by the Civil Judge (Sr.Dn.) & JMFC, Hangal, in MVC No.236/2006 dated 23/07/2008 wherein the Tribunal has awarded compensation of Rs. 86,352/- with interest at 6% per annum.

3. Learned counsel of the appellant submits that the Tribunal has not awarded the compensation under the head loss of income during laid up period, attendant charges and amenities. The accident is of the year 2006. It is stated that claimant was a skilled tiled worker. As per the evidence of the doctor, two injuries are grievous and one injury is simple in nature. The Tribunal has awarded only Rs.24,000/- towards pain and sufferings and it is lower on

side and prays for allowing the appeal by enhancing the compensation.

4. Learned counsel for the respondents prays for dismissal of the appeal contending that the compensation awarded by the Tribunal is just and proper.

5. I have heard the learned counsel appearing for both sides.

6. Considering the year of the accident, income of the injured is to be taken at Rs.4,500/-p.m. as against Rs.4,000/-p.m assessed by the Tribunal. As submitted by the learned counsel for the appellant, the Tribunal has not awarded any compensation under the heads attendant charges, loss of amenities and loss of income during laid up period.

7. The injured was inpatient for four months for which a sum of Rs.12,000/- is awarded under the head attendant charges.

8. The injured suffered two grievous injuries and two simple injuries, for which a sum of Rs.10,000/- is awarded under the head pain and suffering in addition to Rs.24,000/- awarded by the Tribunal.

9. A sum of Rs.15,000/- is awarded under the head amenities. For the injuries sustained in the accident, the injured must have underwent and treatment for a period of four months. Therefore, a sum of Rs.13,500/- is awarded under the head loss of income during laid up period.

10. The Tribunal has awarded a sum of Rs.57,587/- under the head loss of future income by taking the income at Rs.4,000/-p.m. Here the income is assessed at Rs.4,500/-p.m. and the hence the calculation would be  $Rs.4,500 \times 12 \times 10/100 \times 18 = 97,200/-$  The same is awarded towards 'loss of



future income' as against Rs.57,585/- awarded by the Tribunal.

MFA Nos.20773, 20774 and 20775/2008

11. MFA Nos. 20773, 20774 and 20775/2008 are by the Corporation challenging on the quantum and negligence.

12. By considering the injuries, the Tribunal has awarded a compensation of Rs.12,000/- in MVC.No. 234/2006; Rs.10,000/- in MVC No.28/2007; and Rs.12,000/- in MVC No.236/2004. The appellants have not proved the negligence of the driver before the Tribunal. Secondly, the police have filed charge sheet against the driver of KSRTC and the driver was acquitted in the said case. Under these circumstances, these appeals do not survive for consideration, and I pass the following:

#### ORDER

- i. The MFA No.20506/2009 is allowed in part.  
The claimant is entitled for additional

compensation of Rs.90,115/- with interest at 6%.

- ii. MFA No.20075/2005 filed by the Insurance is hereby dismissed
- iii. MFA Nos.20073 and 20074/2008 filed by the corporation are also dismissed.
- iv. The amount in deposit be transmitted to the MACT.

SD/-  
JUDGE.

Rms