

Shrishail and Another Vs. Keerthi and Others

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Court : Karnataka Dharwad

Decided On : Apr-18-2016

Judge : H. Billappa & P.S. Dinesh Kumar

Appeal No. : MFA No. 102420 of 2014 (MV) c/w MFA No. 102179 of 2014 (MV) & MFA No. 101450 of 2014 (MV)

Appellant : Shrishail and Another

Respondent : Keerthi and Others

Judgement :

(Prayers: This miscellaneous first appeal is filed under Section 173(1) of M.V.Act, against the judgment and award dated 4.4.2014, passed in MVC No.2239/2011, on the file of the Presiding Officer, Fast Track Court-II and Member, Addl. MACT, Belgaum, dismissing the claim petition filed U/s.166 of MV Act.

This Miscellaneous First Appeal is filed U/Sec.173(1) of MV Act 1988, against judgment and award dated 4.4.2014, passed in MVC No.2239/2011, on the file of Fast Track Court II and Addl. MACT. Belgaum, awarding the compensation of Rs.8,31,000/- with interest at the rate of 8% P.A. from the date of petition till the date of realisation.)

This Miscellaneous First Appeal is filed U/Sec.173(1) of MV Act 1988. against judgment and award dated 4.4.2014, passed in MVC No.2239/2011. on the file of

the Presiding Officer, Fast Track Court-II and Member, Addl. MACT, Belgaum, Awarding the Compensation of Rs.8,31,000/- with interest at the rate of 8% P.A. from the date of petition till the date of deposit.)

P.S. Dinesh Kumar, J.

1. These three appeals have been filed by the claimant, owner of the Car in which the claimant was travelling and insurer of a Lorry to which the Car dashed and rammed into. All appellants are aggrieved by the judgment and award dated 4.4.2014, in MVC No.2239/2011, on the file of the II Additional MACT, Belgavi.

2. Briefly stated the facts are, the claimant was travelling in a Toyato-Qualis Car bearing registration No.KA-22/M-8778 on 17.2.2011. The driver of the said car was driving it in a rash and negligent manner and rammed into a Stationary Lorry bearing registration No.MH-06/AQ-5954. Due to the impact, the claimant sustained grievous injuries. He filed the instant petition against the owner of the Car and its insurer as also the owner of the Lorry and its insurer. The petition was resisted by the owner of the Car contending inter alia that there was no negligence on the part of the car driver; however in order to avoid dashing against pedestrian, who suddenly came in front of the car, the driver of the Qualis Car hit the stationery Lorry; Lorry was parked without any signal and therefore, the accident was attributable only to the negligence on the part of the driver of the Lorry. Insurer of the Car, also towed the line of defence taken by the owner of the Car and contended that the accident occurred entirely due to the negligence on the part of the driver of the Lorry who had parked it with a load of pipes protruding out of the body of the Lorry.

3. The insurer of the Lorry also resisted the claim denying the petition averments and contended that the accident occurred due to the rash and negligent driving on the part of the driver of the Qualis Car. It was urged that the Lorry was parked on the shoulder of the road with proper indicators. Police have charge sheeted the driver of the Qualis Car which evidences that the negligence was solely on the part of the Car driver only.

4. Based on the pleadings, the Tribunal framed following issues for consideration:

1. Whether the petitioners proves that he has sustained injuries in the alleged accident caused on 17.2.2011 at about 1.00 p.m. while he was proceeding in Qualis Toyota vehicle bearing KA-22/M-8778 along with another person on NH-4, near Kotur Rajasthan Dhaba, due to rash and negligent act of the driver of the Qualis Toyota vehicle bearing No.KA-22/M-8778 and negligent act of the driver of the Lorry bearing No.MH-06/AQ-5954?

2. Whether the petitioner is entitled to compensation, if so, for how much and from whom?

3. What order or award?

(sic)

5. Four witnesses were examined on behalf of the claimant and 28 exhibits marked. Two witnesses were examined on behalf of the respondents and 8 exhibits marked.

6. On consideration of the material on record, the Tribunal held that the claimant was entitled for a compensation at Rs.11,88,000/-. With regard to liability, the Tribunal held that:

i) the accident took place due to the rash and negligent act on the part of the driver of the Qualis Car;

ii) claimant was an occupant of the Car and his risk was not covered. Therefore, the insurer was not liable to indemnify the owner;

iii) the owner of the Car was liable to pay 75% of the compensation;

iv) the Lorry was parked in a dangerous manner on the national highway and pipes were protruding beyond the length of the body of the Lorry. Therefore, the owner of the Lorry/insurer was liable to pay remaining 25% of the compensation.

7. Heard Shri Vitthal S. Teli, learned Counsel for the claimant, Smt. Hemalekha K.S., learned Counsel for the owner of the Qualis Car, Shri M.K. Soudagar, learned Counsel for the insurer of the Car and Shri R.R.Mane, learned Counsel for

the insurer of Lorry.

8. Shri Vitthal S. Teli, submitted that the claimant has suffered serious injuries in the accident. His left leg is amputated at knee level. He has suffered hip joint reduction. There are mal-union fractures. He has suffered dimness in vision and facial disfigurement. Claimant was working as a consultant Engineer in Karnataka Rural Supply and Sanitation Agency and earning Rs.20,000/- per month. In addition, he was also earning Rs.10,000/- by working as a Private Consultant. Due to the accident, he is unable to stand and walk without bilateral auxiliary crutches. Due to facial disfigurement, he is looking ugly and unpleasant. He suffers pain while chewing food, breathing and sneezing. Keeping in view the suffering of the claimant, the compensation awarded is grossly inadequate.

9. An application under Order 41 Rule 27 CPC is filed by the claimant to bring on record two documents. They are circulars dated 31.12.2014 and 15.11.2014, issued by the Karnataka Rural Water Supply and Sanitation Agency, where he was working as a consultant. It is mentioned in the circular dated 31.12.2015 that the unit where he was working stood closed from the date of the circular. In the affidavit filed in support of the application, the claimant has contended that he desired to bring these two additional documents to demonstrate before this Court that the unit where he was working is closed and therefore it was impossible for him to secure any job as he is unable to stand and walk due to amputation of left leg. Further, he cannot see, read, or write anything due to double vision. It is contended that these two documents could not be brought on record before the Tribunal as they were issued after disposal of the claim petition.

10. Owner of the Car has sought to resist the application filed by the claimant to bring the additional documents on record by stating that the said documents are not relevant.

11. In addition to the above contentions, it was argued on behalf of the claimant that the Qualis Car belongs to the wife of one B.R. Shivakumar, who was working as Assistant Technical Consultant Engineer with the Karnataka Rural Water Supply and Sanitation Agency. It was Shivkumar, who was driving the Qualis Car when it met with the accident. After the amputation, to avoid or to minimize any

possible liability which would arise pursuant to the award which was yet to be passed by the Tribunal, Shivakumar got an agreement for Consultancy Services dated 1.7.2012 as per Ex.P28. In terms of the said agreement, claimant was entitled for a fee of Rs.15,314 per month. Despite the fact that the claimant was unable to do any work due to amputation and other injuries he was getting the remuneration from the Karnataka Rural Water Supply and Sanitation Agency. The malafide intention of the owner of the vehicle and her husband is conspicuous by the conduct of the owner in producing Exs.R5 and R6 at the time of her evidence. Ex.R5 is the salary certificate for the month of August 2012. Ex.R6 is an office order dated 7.9.2011 transferring the claimant from Karwar Unit to Belgaum Unit. In sum and substance, it is the submission of the learned Counsel for the claimant that Shivakumar, husband of the owner of Qualis Car was his Controlling Officer and he has stage-managed the renewal of contract and ensured that the Karnataka Rural Water Supply and Sanitation Agency paid the amount as per contract with a motive to demonstrate before the Tribunal that the claimant had continued in the very same job which he was carrying on prior to the accident. The Tribunal believing Exs.R5 and R6 came to a conclusion that the claimant had continued in his job and accordingly, did not award any compensation towards loss of earning capacity. It is further argued that R.W.1, the owner of the Qualis Car has admitted in her cross-examination that her husband was the senior officer of the claimant, that the claimant's job involved site inspection, planning, survey and implementation. R.W.1 has also admitted that her Qualis Car was being used by her husband and he was driving the said Car at the time of accident and charge sheet was filed against him. It is also admitted by her that the claimant was travelling in the said car.

12. With the above submissions, learned Counsel for the claimant prayed for enhancement of compensation and to hold that the insurer was liable to satisfy the award.

13. Per contra, Smt. Hemalekha Kulkarni, learned Counsel for the owner of the Qualis Car contended that husband of the owner of the Car is in no way connected with the employment of the claimant. Claimant was working as a consultant in his independent capacity. His services were continued as per agreement P28 and the

same is not attributable in any manner to her husband. With regard to the Tribunal absolving the insurer of the Car, she submitted that as per the Indian Motor Tariff, the only difference between the an Act policy and a package policy is that Act policy covers liability arising out of bodily injury, death and property, whereas a package policy covers loss or damage to the vehicle in addition to what is covered in the Act policy. She further contended that with reference to an insurance policy, insurer is one party and the insured is the other party. Therefore, any other person, other than these two should be construed as third party. Accordingly, the claimant ought to have been considered as a third party and the insurer ought to have been held liable to indemnify the owner. She further argued that the Tribunal erred in holding that the accident occurred due to the negligence of the Qualis Car driver. Records disclose that the Lorry was parked in a dangerous manner with pipes protruding beyond the length of the Lorry. In such circumstances, Tribunal ought to have held that the accident occurred entirely due to negligence on the part of the driver of the Truck. With these submissions, she prayed for allowing her appeal and dismissing other two appeals filed by the claimant and the insurer of the Lorry.

14. Shri R.R.Mane, learned Counsel for the insurer of the Lorry submitted that the accident has occurred in the broad daylight at 1.00 P.M. in the afternoon. Evidence on record discloses that the Lorry was parked in the Kachcha road beyond the asphalted portion of the National Highway. It is admitted by the owner of the Car in paragraph-5 of the statement of objections that to avoid dashing against a pedestrian, there was no option for the Car driver but to hit the Stationery Lorry. In the light of this categoric admission, the Tribunal erred in saddling 25% liability against the driver of the Truck. Accordingly, he prayed for allowing his appeal and dismissing the appeal filed by the claimant.

15. In the light of the rival contentions urged by respective parties, following points arise for our consideration:

1. Whether the Tribunal was justified in holding that there was no loss of future earning to the claimant?

2. Whether there is any contributory negligence on the part of the driver of the Lorry?
3. Whether the compensation awarded is just and proper?
4. Whether the insurer of Qualis Car is liable to indemnify?

16. Re. Point No.1: It is not in dispute that the left leg of the claimant has been amputated at knee level. P.W.3, a retired orthopedic surgeon has stated in the examination in chief that the claimant has suffered a permanent physical disability of 75% due to amputation of left leg and 23% due to multiple midface bone fractures and nasal bone fractures and disfiguration of face. P.W.4, Doctor has opined that the vision in the right eye is 6/60 and vision in the left eye is 6/6. He has further stated that there is blindness in right eye and distorted vision. He has opined that the permanent disability due to vision defect is 40%.

Nothing worthwhile is elicited in the cross-examination of both doctors.

Claimant was working as a consultant engineer. R.W.1, the owner of the Qualis Car has admitted in her cross-examination that the claimant's job involved inspection, planning, survey and implementation. Ex.P24 is a diploma certificate of claimant in Civil Engineering issued by the Board of Technical Examination. Ex.P28, the agreement between Karnataka Rural Water Supply and Sanitation Agency and the claimant shows that claimant's earnings were Rs.15,314/- per month in the year 2012.

Keeping in view the nature of work of claimant who was working as a consultant Civil Engineer, an amputated leg is certainly a handicap. Admittedly the claimant was working on contract basis. His left leg is amputated and he moves with the support of crutches. He has a blurred vision. The additional documents sought to be brought on record by the claimant clearly demonstrate that the unit where he was working is wound up permanently. Claimant was aged 44 years in 2011. In the circumstances, the finding recorded by the Tribunal that the claimant has not suffered any functional disability is perverse and deserves to be set aside. Keeping in view the medical evidence, we hold that the claimant suffers from a

permanent disability of 75%. We also hold that the Tribunal erred in holding that the claimant was not entitled for loss of future earning.

17. Re.Point No.2: The owner of the Car in the statement of objections has admitted that the accident occurred to avoid a pedestrian. It is precisely stated as follows in paragraph No.5 of the statement of objections:

It is submitted that the driver of the Qualis vehicle Shri B.R.Shivkumar is the husband of respondent No.1, driving his vehicle in a moderate speed with observing all traffic rule and regulation. When the vehicle came near the spot of accident, i.e. N H -4 road near Kotur-Rajasthan Dhaba, a person suddenly jumped on the road from the divider. There were screening trees planted on the divider. Because of the screening trees, the person who jumped on the road was not seen by the driver of the Qualis vehicle. That person suddenly jumped on the road and crossed the road; to avoid the accident, the driver of Qualis vehicle has no option than to hit the stationary Lorry.

The accident had occurred due to parking of the truck bearing No.MH-06/AQ-5954. .. (sic)

Ex.P9 is the spot panchanama. There is a sketch annexed to the spot panchanama. As per the panchanama and the sketch, the width of the four line National Highway is 24 feet. Thereafter, there is a 12 feet wide kachcha road. Lorry is parked on the extreme left side of the kachcha road. Between the edge of the Lorry and the National Highway, there is still a gap of 3 feet on the Kachcha road. Thus, in all, the driver of the Qualis had 27 feet to pass the vehicle (24 feet of National Highway plus 3 feet of kachcha road). However, the Qualis Car had rammed into the hind side of the Stationery Lorry. The Tribunal has come to a conclusion that the Lorry was parked in a dangerous position on an assumption that judicial notice can be taken of the fact that specific parking zones are provided by the side of the National Highway and that it is not the case of the insurer of the Lorry that the Lorry was parked in a specific space or zone meant for parking of vehicles. This finding is also equally erroneous and deserves to be set aside because, it is the admitted case of the owner of the car that the accident has occurred while avoiding a pedestrian. The entire 4 line National Highway is found

free as per the sketch and panchanama. Lorry is on the Kachcha road 2 feet beyond the asphalted road. Hence, we hold that there was no contributory negligence on the part of the driver of the Lorry.

18. Re. Point No.3: The Tribunal while computing the compensation has not awarded any compensation towards loss of future earning and awarded a total sum of Rs.11,88,000/- under various heads. Claimant had submitted medical bills for Rs.4,78,398/-. The Tribunal has awarded Rs.4,99,750/- slightly in excess of the claim and the same does not require any interference.

Compensation of Rs.50,000/- towards purchase of crutches also does not require any interference.

Ex.P10 would certificate discloses injuries on the left leg, foot, knee, head injury, facial injury, left hip injury, multiple abrasions over left leg, multiple facial bone fracture. Nature of injuries have been described as grievous. The left knee has been amputated. He has lost vision in one of the eyes. In the circumstances, pain and suffering is reassessed at Rs.2,00,000/-.

Doctor P.W.3 has opined that claimant has suffered amputation of left leg, complete disfiguration of face due to multiple facial bone fractures, depression of nasal bridge and right and left nasal bones. He has further stated that there are small plates and screws which are in situ in the face on both right and left side. He has also opined that there is malunion of fractured bones. P.W.4- doctor has opined that there is blindness in right eye and distorted vision. Taking note of the injuries suffered, amputation of leg and malunion of fractures, we deem it appropriate to award a sum of Rs.3,00,000/- towards loss of amenities.

Claimant was an in-patient for about 20 days between 17.2.2011 to 6.3.2011. He would have incurred expenses towards attendant charges, transport, diet, nutrition etc. which we quantify at Rs.3,000/- per day and award Rs.60,000/-.

Loss of income during treatment period remains undisturbed.

The claimant is a Civil Engineer and he was working as a consultant with Karnataka Rural Supply and Sanitation Agency. It is argued on behalf of the

claimant that the husband of the owner of the Car to whom the claimant was reporting, got the agreement renewed as per Ex.28 by misusing his official position, even though the claimant was not in a position to work. The renewal was got done only in order to demonstrate before the Tribunal that there was no loss of income to the petitioner. The medical evidence on record is cogent and has remained unimpeached. P.W.3 in his evidence has assessed 23% disability due to multiple face bone fractures and nasal bone fractures and a permanent disability of 75% due to amputation of left leg. P.W.4-doctor has assessed 40% permanent disability occurring due to blindness in right eye and distorted vision. We are conscious of the fact that when an injured suffers permanent disability due to multiple injuries sustained to different parts of the body, the total quantum of disability will have to be computed by adopting standard procedures such as notifications issued by the Ministry of Social Justice and/or evaluation guides on the subject. We have perused the guidelines and explanations for the purpose of certification of disability issued by the National Institute for the Orthopedically handicapped, Kolkata, which is based on the notifications issued by the Ministry of Social Justice and Empowerment, Government of India. In terms thereof, in case of multiple disability, the total percentage of disability is suggested to be computed in the following manner:

$$A + b(90-a)/90$$

Where, a will be higher score and b will be lower score. Though the P.W.3 has stated that disability due amputation is 75%, we propose to assess the disability keeping in view the factors as mentioned in part II of Schedule I of Employees Compensation Act, 1923. As per the said schedule, disability due to amputation of leg below middle thigh to below knee is 60% and loss one eye as 40%. By applying the above formula, the disability suffered due to amputation of knee and blindness in right eye, works out as follows:

$$60 + 40 (90-60)/90= 73.33\%$$

In addition, claimant has also suffered multiple midface bone fracture, nasal bone fracture and disfigurement of face.

While considering an identical case, the Hon ble Supreme Court in the case Aravind Kumar Mishra, v. New India Assurance CO. Ltd., reported in (2010)10 SCC 254 has accepted 70% as permanent disability. In the said case, a student of final year Engineering had suffered amputation of his right hand and loss of vision. In the instant case, the claimant has suffered amputation of left leg, loss of vision of one eye and in addition, multiple midface bone fracture, nasal bone fracture and complete disfigurement of face. In the circumstances, we deem it appropriate to assess the disability at 75%. The claimant was earning Rs.15,314/-. Accordingly, the loss of earnings works out of Rs.11,485/- (75% of Rs.15,314/-). The claimant was aged 44 years. Therefore, the applicable multiplier is 14 . With these inputs, the loss of future income works out to Rs.11,485/-x14x12= Rs.19,29,480/-.

The total compensation is re-assessed as follows:-

Sl. No	Heads of compensation	Amount in Rs.
1.	Pain and sufferings	2,00,000-00
2.	Loss of amenities in life	3,00,000-00
3.	Loss of future income	19,29,480-00
4.	Medical Expenses	4,99,750-00
5.	Attendant charges, Food, Nourishment, Transport, Conveyance and incidental charges	60,000-00
6.	Loss of income during the period of treatment for six months	1,23,250-00

7.	Future medical and incidental Expenses	50,000-00
8.	Purchase of crutches	50,000-00
	Total	32,12,480-00
	Less: as awarded by the Tribunal	11,88,000-00
	Enhanced compensation	20,24,480-00

19. Re. Point No.4: It is not in dispute that the claimant was a passenger in the Car. The specific ground urged by the owner of the Car in this appeal is that there is no difference between an Act policy and a comprehensive policy so far as a third party is concerned. Ex.R7 produced by the owner of the Car clearly demonstrates that the policy is a liability only policy . The Tribunal has placed reliance on the judgment of the Hon ble Supreme Court in the case of National Insurance Co.Ltd. vs. Balakrishnan and another reported in 2013 ACJ 199 to absolve the insurer of the Car. We have also perused the said judgment, wherein the Hon ble Supreme Court has held as follows:-

21. In view of the aforesaid factual position, there is no scintilla of doubt that a Comprehensive/package policy would cover the liability of the insurer for payment of compensation for the occupant in a car. There is no cavil that an Act Policy stands on a different footing from a Comprehensive/Package Policy . As the circulars have made the position very clear and the IRDA, which is presently the statutory authority, has commanded the insurance companies stating that a Comprehensive/Package Policy covers the liability, there cannot be any dispute in that regard. We may hasten to clarify that the earlier pronouncements were rendered in respect of the Act Policy which admittedly cannot cover a third party risk of an occupant in a car. But, if the policy is a Comprehensive/Package Policy , the liability would be covered. These aspects were not noticed in the case of Bhagyalakshmi, (2009)7 SCC 148 and, therefore, the matter was referred to a larger Bench. We are disposed to think that there is no necessity to refer the present matter to a larger Bench as the IRDA, which is presently the statutory authority, has clarified the position by issuing circulars which have been

reproduced in the judgment by the Delhi High Court and we have also reproduced the same.

(underlining is by us)

No other judgment contrary to this proposition is brought to our notice. Learned Counsel for the owner of the car has placed reliance on the following judgments:-

1. 2012 ACJ 393 (Managing Director, Tamil Nadu State Transport Corporation Ltd. v. Amudha Sivaprakasam and others)

In this case, Hon ble Madras High Court was considering the aspect of negligence. In the instant case, based on records, we have held that the accident has occurred entirely due to the negligence on the part of the driver of the Qualis Car.

2. ILR 2002 KAR 3117 (Dr. S. Jayaram Shetty v. National Insurance Company Ltd.)

In this case, the Division Bench of this Court was considering an issue with regard to insurance cover to an occupant in a private Car. In the light of the decision of the Hon ble Supreme Court in the case of Balakrishna supra, the instant judgment cannot be made applicable to the facts of this case.

3. 2011 ACJ 2787 (Dr. Bhakthaprahlad and another v Nirvani and others)

In this case also, the Division Bench of this Court was considering the aspect of contributory negligence and liability of an insurer in a case where a motor cycle had hit a parked truck. In view of our finding that there is no negligence on the part of the driver of the Lorry, the instant judgment is also not applicable to the facts of this case.

Therefore, we hold that the insurer of the Qualis car is not liable to indemnify the owner of the car.

20. Before parting with the case, we feel it necessary to deal with the assertions made by the learned Counsel while stressing for the need to accept additional documents sought to be brought on record. He precisely submitted that having

suffered amputation of left leg, other multiple injuries, facial disfiguration, blindness in eye and distorted vision, he was not fit for taking up any employment. However, in order to avoid or minimize a possible liability arising out of the claim petition, Shivakumar, husband of the owner of the Car, misusing his official position got an agreement as per Ex.P28 executed. Although this aspect was sought to be resisted by the owner of the vehicle, the allegation on the face of it is very serious and disturbing. Based on records, we have held that the claimant has suffered 75% permanent disability. The conduct of the owner in producing Ex.R5, the salary certificate for the month of August 2012 speaks volumes about the intention of the owner of the Car and prima-facie fortifies the argument advanced on behalf of the claimant. The husband of the owner is not before the Court. Therefore, it would be inappropriate to record a finding in these proceedings. Nonetheless, such serious allegations if found correct would mean that public funds were grossly misused abusing official position with malafide intention to avoid liability. Therefore, we deem it proper to order for an enquiry by the Head of the Department. Accordingly, we direct the Chief Secretary, Government of Karnataka, to order a departmental enquiry by the Principal Secretary under whose administrative control, the Karnataka Rural Water Supply and Sanitation Agency falls or any other officer of the said rank. The concerned Principal Secretary to whom such enquiry is assigned shall hold a detailed enquiry as to under what circumstances, Ex.P28 was executed. He shall also bring on record as to the quantum of money spent upon the claimant from the date of accident till the last payment made to the claimant in terms of said agreement. If it is revealed in the enquiry that there was misuse of official power and Ex.P28 was executed only to facilitate payment of salary to the claimant, the Principal Secretary shall order for recovery of all such sums belonging to the State Exchequer spent upon the claimant from the date of the accident from the salary of Shivakumar, the husband of the owner of the Qualis Car. Based on the outcome of the enquiry report, suitable disciplinary action shall be instituted applicable under Conduct Rules against all concerned, Suitable criminal action shall also be instituted against those officers, who are found guilty of facilitating execution of Ex.P28 and causing misappropriation of public funds.

21. Having carefully considered all aspects of the case, we are of the opinion that the claimant who had suffered 75% disability had no choice but to humbly accept any helping hand lent by any person while suffering such distress and agony. Accordingly, we make it clear and direct that there shall be no adverse order nor any proceeding initiated against the claimant with regard to Ex.P28.

32. We further direct strict compliance of the directions contained in paragraphs No.20 and 21 above with regard to departmental enquiry, recovery and criminal prosecution. Compliance shall be reported to the Additional Registrar General, High Court of Karnataka, Dharwad Bench, Dharwad within three months from the date of receipt of a copy of this order by forwarding a copy of the enquiry report and furnishing details of other actions taken. Further, the Registry is directed to list this appeal for such further orders, after the receipt of compliance report from the Officer of Chief Secretary, Government of Karnataka.

23. In the result, we pass the following:-

ORDER

- i) Appeal filed by the claimant in M.F.A. No.102420/20-14 is allowed in part;
- ii) Judgment and Award dated 4.4.2014 in MVC No.2239/2011 on the file of the Fast Track Court II and Additional MACT, Belgaum, is modified by awarding an enhanced compensation of Rs.20,24,480/-.
- iii) Appeal in MFA No.101450/2014 filed by insurer of Lorry is allowed and the liability of 25% saddled by the Tribunal is set aside.
- iv) Appeal in MFA No.102179/2014 filed by the owner of Qualis Car is dismissed.
- v) The owner of the Qualis Car is held liable to pay the entire compensation of Rs.32,12,480/- with 9% interest from the date of accident till the date deposit within four weeks from the date of receipt of a copy of this order.
- vi) Registry is directed to send a copy of this order together with a copy of Ex.P28 forthwith to the Chief Secretary, Government of Karnataka, for compliance of the

directions contained in this order.

vii) On such deposit, the Tribunal is directed to deposit Rs.25,00,000/- with proportionate interest in fixed deposit in any nationalized Bank for a period of 5 years. Claimant shall be entitled to draw interest once on 3 month. The Tribunal to release the balance amount with proportionate interest to the claimant.

viii) Registry is directed to transfer the amount in deposit to the Tribunal.

ix) Costs quantified at Rs.20,000/- payable by the owner of the Car to the claimant.

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