

Noor and Anr vs M/S Raj Infrasturcutre Development (I) and Anr

Noor and Anr vs M/S Raj Infrasturcutre Development (I) and Anr

SooperKanoon Citation : sooperkanoon.com/1634372

Court : Karnataka Kalaburagi

Decided On : Aug-30-2025

Judge : H.P.Sandesh,T.M.Nadaf

Appeal No. : MFA/202031/2024

Appellant : Noor and Anr

Respondent : M/S Raj Infrasturcutre Development (I) and Anr

Judgement :

-1- IN THE HIGH COURT OF KARNATAKA, KALABURAGI BENCH DATED THIS THE 30TH DAY OF AUGUST, 2025 PRESENT THE HON'BLE MR. JUSTICE H.P.SANDESH AND THE HON'BLE MR. JUSTICE T.M.NADAF MISCL. FIRST APPEAL NO.202031 OF 2024 (MV-D) C/W MISCL. FIRST APPEAL NO.203722 OF 2023(MV-D)

MISCL. FIRST APPEAL NO.203723 OF 2023(MV-D) MISCL. FIRST APPEAL NO.203725 OF 2023(MV-D) MISCL. FIRST APPEAL NO.200950 OF 2024(MV-D) MISCL. FIRST APPEAL NO.200952 OF 2024(MV-D) MISCL. FIRST APPEAL NO.202465 OF 2024(MV-D) Digitally MISCL. FIRST APPEAL NO.202466 OF 2024(MV-D) signed by REKHA R IN MFA No.202031/2024: Location: High Court BETWEEN: of Karnataka

1. NOOR S/O KASIMSAB SAYYED AGE 54 YEARS, OCC. NIL,

2. MALAUNBI W/O NOOR SAYYED AGE 52 YEARS, OCC.HOUSEHOLD WORK BOTH ARE R/O. MANGRUL TQ. JALKOT, DIST. LATUR. -2- APPELLANTS (BY SRI SANGANAGOUDA V BIRADAR, ADVOCATE) AND:

1. M/S RAJ INFRASTRUCTURE DEVELOPMENT (I) PV. 411, PRIDE SILICOMA PLAZA, SENAPATI BAPAT ROAD, PUNE-144016.

2. THE BRANCH MANAGER BHARATI AXA GEN. INSURANCE CO. LTD., 1ST FLOOR, CENTRAL BUILDING OPPOSITE VIDYA NAGAR POLICE STATION VIDYANAGAR, HUBLI-580021.

3. RAVI S/O MUKUNDAPPA JEERAGAL AGE 44 YEARS, OCC. BUSINESS, R/O. GACHINAKATTI COLONY, PRAGATI NAGAR, VIJAYAPUR-586101.

4. THE BRANCH MANAGER, ORIENTAL INSURANCE CO LTD., 1ST FLOOR, BIDARI COMPLEX, VIJAYAPUR-586101. RESPONDENTS (BY SRI MANJUNATH MALLAYYA SHETTY, ADV. FOR R2; SRI MANVENDRA REDDY, ADV. FOR R4; V/O DATED 22.01.2025, NOTICE TO R1 AND R3 DISPENSED WITH) THIS MFA IS FILED U/S. 173(1) OF MV ACT, PRAYING TO

ALLOW THE CLAIM PETITION BY MODIFYING JUDGMENT AND AWARD DATED 28-06-2023 PASSED BY THE III ADDITIONAL SENIOR CIVIL JUDGE AND MACT-XII, AT VIJAYAPURA IN MVC NO.177/2019 AND ENHANCE THE COMPENSATION, IN THE INTEREST OF JUSTICE AND EQUITY. -3- IN MFA No.203722/2023: BETWEEN: THE BRANCH MANAGER BHARATI AXA GENERAL INSURANCE COMPANY LTD., 1ST FLOOR, CENTRAL BUILDING, OPP. VIDYA NAGAR, POLICE STATION, VIDYA NAGAR, HUBLI. NOW MERGE IN ICICI LOMBARD GENERAL INSURANCE COMPANY LIMITED, 3RD FLOOR, A K ASIAN GRAND COMPLEX OPP. GESCOM OFFICE, STATION ROAD, KALABURAGI-585103. REPRESENTED BY ITS LEGAL MANAGER KALABURAGI. APPELLANT (BY SRI MANJUNATH MALLAYYA SHETTY, ADVOCATE) AND:

1. NOOR S/O KASIMSAB SAYYED AGED ABOUT 53 YEARS, OCC. NIL,

2. MALAUNBI W/O NOOR SAYYED AGED ABOUT 51 YEARS, OCC.HOUSEHOLD BOTH R/O. MANGRUL TQ. JALKOT, DIST. LATUR -413532.

3. M/S RAJ INFRASTRUCTURE DEVELOPMENT IN PV., 411 PRIDE SILICOMA PLAZA, SENAPATI BAPAT RPAD, PUNE-411016.

4. RAVI S/O MUKUNDAPPA JEERAGAL AGED ABOUT 43 YEARS, -4- OCC. BUSINESS R/O GACHINAKATTI COLONY, PRAGATI NAGAR VIJAYAPURA - 586101.

5. THE BRANCH MANAGER ORIENTAL INSURANCE COMPANY LTD., 1ST FLOOR, BIDARI COMPLEX, SS FRONT ROAD, VIJAYAPURA -585101. RESPONDENTS (BY SRI SANGANAGOUDA V. BIRADAR, ADV. FOR R1 & R2; SRI B.V.JALDE, ADV. FOR R3; SRI MANVENDRA REDDY, ADV. FOR R5; V/O. DATED 31.01.2025, NOTICE TO R4 DISPENSED WITH) THIS MFA IS FILED U/S. 173(1) OF MV ACT 1988, PRAYING TO ALLOW THE ABOVE MISC. FIRST APPEAL AND

CONSEQUENTLY BE PLEASED TO SET ASIDE THE JUDGMENT

AND AWARD DATED 28.06.2023 PASSED BY THE III ADDL. SENOR CIVIL JUDGE AND MACT-XII AT VIJAYAPURA IN MVC NO.177/2019 AND CONSEQUENTLY BE PLEASED TO DISCHARGE ITS LIABILITY TO PAY THE COMPENSATION AND ALSO REDUCE COMPENSATION AWARDED BY THE TRIBUNAL, IN THE INTEREST OF JUSTICE AND EQUITY. IN MFA No.203723/2023: BETWEEN: THE BRANCH MANAGER BHARATI AXA GENERAL INSURANCE COMPANY LTD., 1ST FLOOR, CENTRAL BUILDING, OPP. VIDYA NAGAR, POLICE STATION, VIDYA NAGAR, HUBLI. NOW MARGE IN ICICI LOMBARD GENERAL INSURANCE COMPANY LTD, 3RD FLOOR, A K ASIAN GRAND COMPLEX OPP. GESCOM OFFICE, STATION ROAD, KALABURAGI-585103. -5- REPRESENTED BY ITS LEGAL MANAGER KALABURAGI. APPELLANT (BY SRI. MANJUNATH MALLAYYA SHETTY, ADVOCATE) AND:

1. NANNU @ NAHANU S/O MAHEBOOB SAYYED AGED ABOUT 61 YEARS, OCC. NIL,
2. MALANBI W/O NANNU @ NAHANU SAYYED AGED ABOUT 53 YEARS, OCC. HOUSEHOLD BOTH ARE R/O. MANGRUL TQ. JALKOT, DIST. LATUR - 413 532.
3. M/S RAJ INFRASTRUCTURE DEVELOPMENT IN PV., 411, PRIDE SILICOMA PLAZA, SENAPATI BAPAT RPAD, PUNE-411016.
4. RAVI S/O MUKUNDAPPA JEERAGAL AGED ABOUT 43 YEARS OCC. BUSINESS R/O. GACHINAKATTI COLONY, PRAGATI NAGAR VIJAYAPURA - 586101.
5. THE BRANCH MANAGER ORIENTAL INSURANCE COMPANY LTD., 1ST FLOOR, BIDARI COMPLEX, S S FRONT ROAD VIJAYAPURA -585101. RESPONDENTS (BY SRI SANGANAGOUDA V. BIRADAR, ADV. FOR R1 & R2; SRI B.V.JALDE & SRI. VEERANAGOUDA BIRADAR, ADV. FOR R3; SRI MANVENDRA REDDY, ADV. FOR R5; V/O. DATED 31.01.2025, NOTICE TO R4 DISPENSED WITH) -6- THIS MFA IS FILED U/S. 173(1) OF MV ACT 1988, PRAYING TO ALLOW THE ABOVE MISC. FIRST APPEAL AND

CONSEQUENTLY BE PLEASED TO SET ASIDE THE JUDGMENT

AND AWARD DATED 28-06-2023 PASSED BY THE III ADDL SENIOR CIVIL JUDGE AND MACT-XII AT VIJAYAPURA IN MVC NO.178/2019, AND CONSEQUENTLY BE PLEASED TO DISCHARGE ITS LIABILITY TO PAY THE COMPENSATION AND ALSO REDUCE COMPENSATION AWARDED BY THE TRIBUNAL, IN THE INTEREST OF JUSTICE AND EQUITY. IN MFA No.203725/2023: BETWEEN: THE BRANCH MANAGER BHARATI AXA GENERAL INSURANCE COMPANY LTD., 1ST FLOOR, CENTRAL BUILDING, OPP. VIDYA NAGAR, POLICE STATION, VIDYA NAGAR, HUBLI. NOW MARGE IN ICICI LOMBARD GENERAL INSURANCE COMPANY LTD, 3RD FLOOR, A K ASIAN GRAND COMPLEX OPP. GESCOM OFFICE, STATION ROAD, KALABURAGI-585103. REPRESENTED BY ITS LEGAL MANAGER

KALABURAGI. APPELLANT (BY SRI. MANJUNATH MALLAYYA SHETTY, ADVOCATE) -7- AND:

1. TASLEEMBI W/O ABBAS PATEL AGED ABOUT 39 YEARS, OCC. HH WORK,
2. MUNEER S/O ABBAS PATEL AGED ABOUT 21 YEARS, OCC. HOUSEHOLD.
3. NASEER W/O ABBAS PATEL AGED ABOUT 18 YEARS, OCC. STUDENT
4. SAMREEN D/O ABBAS PATEL AGED ABOUT 15 YEARS, OCC.STUDENT
M/G BY RESPONDENT NO.1 HEREIN ALL ARE R/O. MUNGRUL, TQ. JALKOT,
DIST. LATUR-413532.
5. M/S RAJ INFRASTRUCTURE DEVELOPMENT IN PV., 411, PRIDE SILICOMA
PLAZA, SENAPATI BAPAT RPAD, PUNE-411016.
6. RAVI S/O MUKUNDAPPA JEERAGAL AGED ABOUT 43 YEARS, OCC.
BUSINESS R/O. GACHINAKATTI COLONY, PRAGATI NAGAR VIJAYAPURA -
586101.
7. THE BRANCH MANAGER

ORIENTAL INSURANCE COMPANY LTD., 1ST FLOOR, BIDARI COMPLEX, S S
FRONT ROAD, VIJAYAPURA -585101. RESPONDENTS (BY SRI
SANGANAGOUDA V. BIRADAR, ADV. FOR R1 & R4 R4 IS MINOR REPTD. BY
R1; -8- SRI B.V.JALDE, ADV. FOR R5; SRI MANVENDRA REDDY, ADV. FOR
R7; V/O. DATED 31.01.2025, NOTICE TO R6 IS DISPENSED WITH) THIS MFA
IS FILED U/S. 173(1) OF MV ACT 1988, PRAYING TO ALLOW THE ABOVE
MISC. FIRST APPEAL AND

CONSEQUENTLY BE PLEASED TO SET ASIDE THE JUDGMENT

AND AWARD DATED 28.06.2023 PASSED BY THE III ADDL SENIOR CIVIL
JUDGE AND MACT-XII AT VJAYAPURA IN MVC NO.176/2019 AND
CONSEQUENTLY BE PLEASED TO DISCHARGE ITS LIABILITY TO PAY THE
COMPENSATION AND ALSO REDUCE COMPENSATION AWARDED BY THE
TRIBUNAL, IN THE INTEREST OF JUSTICE AND EQUITY. IN MFA

No.200950/2024: BETWEEN:

1. TASLEEMBI W/O ABBAS PATEL AGE 40 YEARS, OCC.HOUSEHOLD WORK.
2. MUNNER S/O ABBAAS PATEL AGE 22 YEARS, OCC.HOUSEHOLD WORK.
3. NASEER S/O ABBAAS PATEL AGE 19 YEARS, OCC. NIL.
4. SAMREEN

D/O ABBAAS PATEL AGE 16 YEARS, MINOR U/G OF PETITIONER NO.1 ALL ARE R/O MANGRUL, TQ. JALKOT, DIST. LATUR-413512. APPELLANTS (BY SRI SANGANAGOUDA V. BIRADAR, ADVOCATE) -9- AND:

1. M/S RAJ INFRASTRUCTURE DEVELOPMENT (I) PV. 411, PRIDE SILICOMA PLAZA, SENAPATI BAPAT RPAD, PUNE-144016.
2. THE BRANCH MANAGER BHARATI AXA GEN. INSURNANCE CO. LTD, 1ST FLOOR, CENTRAL BUILDING OPPOSITE VIDYA NAGAR POLICE STATION VIDYANAGAR HUBLI-580021.
3. RAVI S/O MUKUNDAPPA JEERAGAL AGED ABOUT 44 YEARS, OCC. BUSINESS R/O. GACHINAKATTI COLONY, PRAGATI NAGAR VIJAYAPURA - 586101.
4. THE BRANCH MANAGER

ORIENTAL INSURANCE CO. LTD., 1ST FLOOR, BIDARI COMPLEX, VIJAYAPURA -586101. RESPONDENTS (BY SRI B.V.JALDE, ADV. FOR R1; SRI MANJUNATH MALLAYYA SHETTY, ADV. FOR R2; SRI MANVENDRA REDDY, ADV. FOR R4) THIS MFA IS FILED U/S. 173(1) OF MV ACT, PRAYING TO ALLOW THE CLAIM PETITION THE JUDGMENT AND AWARD DATED 28-06-2023 PASSED BY THE III ADDITIONAL SENIOR CIVIL JUDGE AND MACT-XII AT VIJAYAPURA IN MVC NO. INTEREST OF JUSTICE AND EQUITY. - 10 - IN MFA No.200952/2024: BETWEEN:

1. NANNU @ NAHANU S/O. MAHEBOOB SAYYED AGE 62 YEARS, OCC. NIL,

2. MALANBI

W/O. NANU @ NAHANU SAYYED AGE 54 YEARS, OCC. HOUSEHOLD WORK BOTH ARE R/O MANGRUL, TQ. JALKOT DIST. LATUR. APPELLANTS (BY SRI SANGANAGOUDA V. BIRADAR, ADVOCATE) AND:

1. M/S RAJ INFRASTRUCTURE DEVELOPMENT (I) PV. 411, PRIDE SILICOMA PLAZA SENAPATI BAPAT RPAD, PUNE-411016.

2. THE BRANCH MANAGER BHARATI AXA GEN. INSURNANCE CO. LTD., 1ST FLOOR, CENTRAL BUILDING OPPOSITE VIDYA NAGAR POLICE STATION VIDYANAGAR HUBLI-580021.

3. RAVI S/O MUKUNDAPPA JEERAGAL AGED ABOUT 44 YEARS, OCC. BUSINESS R/O. GACHINAKATTI COLONY, PRAGATI NAGAR VIJAYAPURA - 586101.

4. THE BRANCH MANAGER

ORIENTAL INSURANCE CO. LTD., 1ST FLOOR, BIDARI COMPLEX, VIJAYAPURA -586101. - 11 - RESPONDENTS (BY SRI B.V.JALDE, ADV. FOR R1; SRI MANJUNATH MALLAYYA SHETTY, ADV. FOR R2; SRI MANVENDRA REDDY, ADV. FOR R4) THIS MFA IS FILED U/S. 173(1) OF MV ACT, PRAYING TO ALLOW THE CLAIM PETITION THE JUDGMENT AND AWARD DATED 28-06-2023 PASSED BY THE III ADDITIONAL SENIOR CIVIL JUDGE AND MACT XII AT VIJAYAPURA IN MVC NO. INTEREST OF JUSTICE AND EQUITY. IN MFA No.202465/2024: BETWEEN:

1. THE MANAGER CLAIMS BHARATI AXA GENERAL INSURANCE COMPANY LTD., VIJAYA BANK BUILDING, 1ST FLOOR, P.B ROAD, NEAR CANARA HOTEL, HOSUR, HUBLI. NOW MARGE IN ICICI LOMBARD GENERAL INSURANCE COMPANY LTD., 3RD FLOOR, A K ASIAN GRAND COMPLEX, OPP GESCOM OFFICE STATION ROAD, KALABURAGI-585103. REPRESENTED BY ITS LEGAL MANAGER BANGALORE. APPELLANT (BY SRI MANJUNATH MALLAYYA SHETTY, ADVOCATE) AND:

1. ISAK S/O. HASHENASAB MANAGARULE, AGE ABOUT 62 YEARS, OCC. NIL.

2. SMT. ARIFABI W/O. ISAK MANGARULE AGE ABOUT 61 YEARS, OCC. HOUSEWIFE - 12 - BOTH ARE R/O MU DAPAK GUNDOPANT TQ: MUKHED, DIST: NANDED, NOW R/O. DARGA ROAD, VIJAYAPUR-586101.

3. THE MANAGING DIRECTOR

M/S RAJ INFRASTRUCTURE DEVELOPMENT IN PV 410-411, PRIDE SILICOMA PLAZA, SENAPATI BAPAT ROAD, PUNE-411016(MH) (OWNER OF BOLERO JEEP NO. MH 12/QG 4766) RESPONDENTS (BY SRI SANGANAGOUDA V BIRADAR, ADV. FOR R1 & R2: SRI B.V.JALDE & SRI. VEERANAGOUDA BIRADAR, ADV. FOR R3) THIS MFA IS FILED U/S. 173(1) OF MV ACT 1988, PRAYING TO ALLOW THE ABOVE MISC. FIRST APPEAL AND

CONSEQUENTLY BE PLEASED TO SET ASIDE THE JUDGMENT

AND AWARD DATED 16-07-2024 PASSED BY THE III ADDL. SENIOR CIVIL JUDGE AND MACT-XII AT VIJAYAPURA IN MVC NO.368/2019, AND CONSEQUENTLY BE PLEASED TO DISCHARGE ITS LIABILITY TO PAY THE COMPENSATION AND ALSO REDUCE COMPENSATION AWARDED BY THE TRIBUNAL, IN THE INTEREST OF JUSTICE AND EQUITY. IN MFA No.202466/2024: BETWEEN: THE MANAGER CLAIMS BHARATI AXA GENERAL INSURANCE COMPANY LTD., VIJAYA BANK BUILDING, 1ST FLOOR, P. B ROAD, NEAR CANARA HOTEL, HOSUR, HUBLI. NOW MARGE IN ICICI LOMBARD GENERAL INSURANCE COMPANY LTD., 3RD FLOOR, A K ASIAN GRAND COMPLEX, OPP. GESCOM OFFICE, STATION ROAD, KALABURAGI-585103. APPELLANT - 13 - (BY SRI. MANJUNATH MALLAYYA SHETTY, ADVOCATE) AND:

1. SMT. PRATIBHA W/O. GAJANAN DHONE, AGE ABOUT 27 YEARS, OCC. HOUSEWIFE

2. PIRAJI S/O SHAMARAO DHONE, AGE ABOUT 61 YEARS, OCC. NIL

3. SMT. GANGABAI W/O. PIRAJI DHONE, AGE ABOUT 60 YEARS, OCC. HOUSEWIFE, ALL ARE R/O BHOSI, POST KURTADI, NOW R/O DARGA ROAD, VIJAYAPURA-413532.

4. THE MANAGING DIRECTOR

M/S RAJ INFRASTRUCTURE DEVELOPMENT IN PV., 410-411, PRIDE SILICOMA PLAZA SENAPATI BAPAT ROAD, PUNE-411016(MH) (OWNER OF BOLERO JEEP NO.MH 12/QG 4766) RESPONDENTS (BY SRI SANGANAGOUDA V BIRADAR, ADV. FOR R1 TO R3; SRI B V JALDE AND SRI VEERANAGOUDA BIRADAR, ADV. FOR R4) THIS MFA IS FILED U/S. 173(1) OF MV ACT 1988, PRAYING TO ALLOW THE ABOVE MISC. FIRST APPEAL AND

CONSEQUENTLY BE PLEASED TO SET ASIDE THE JUDGMENT

AND AWARD DATED 16.07.2024 PASSED BY THE III ADDL SENIOR CIVIL JUDGE AND MACT-XII AT VIJAYAPURA IN MVC NO.369/2019 AND CONSEQUENTLY BE PLEASED TO DISCHARGE ITS LIABILITY TO PAY THE COMPENSATION AND ALSO REDUCE COMPENSATION AWARDED BY THE TRIBUNAL IN THE INTEREST OF JUSTICE AND EQUITY. - 14 - THESE APPEALS ARE COMING ON FOR FURTHER ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER: CORAM: HON'BLE MR. JUSTICE H.P.SANDESH AND

HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M.NADAF) These eight appeals though arising out of different motor vehicle cases heard in common, disposed of by the same Tribunal but on different dates. However, all the claims are arising out of same accident. Hence, all are taken together for common disposal by this common

order.

2. Three appeals being MFA Nos.203722/2023, three appeals being MFA Nos.202031/2024, 200950/2024 and 200952/2024 are by the claimants. The aforesaid

appeals are filed calling in question the common judgment

and award dated 28.06.2023 in MVC Nos.176/2019, - 15 - Civil Judge and MACT-XII, at Vijayapura (for short, the Tribunal).

3. The appeals being MFA Nos.202465/2024

arising out of MVC No.368/2019 and MFA No.202466/2024 arising out of MVC No.369/2019 vide judgment and award dated 16.07.2024 passed by the very same Tribunal are filed by the insurer calling in question the liability alternatively on quantum.

4. The insurer is in appeal in all the appeals supra

calling in question the liability restricting the claim amount to an extent of Rs.1 lakh in terms of the policy produced. In the alternative on quantum of compensation. The claimants are in the appeals stated supra only on the ground of quantum of compensation.

5. The date of accident, involvement of vehicle, death of the victim respectively, in all the claim petitions are not in dispute. - 16 -

6. Heard Sri Manjunath Mallayya Shetty, learned

counsel appearing for the insurer, Sri Sanganagouda V. Biradar, learned counsel appearing for the claimants in all the appeals filed by the claimants as well as insurer and Sri B.V. Jalde, learned counsel appearing for respondent - owner of the vehicle in all the appeals.

7. Sri Manjunath Mallayya Shetty, in all the

appeals stated supra filed by the insurer mainly contended on the ground that as per the insurance policy, the liability is fixed to an extent of Rs.1 lakh though the

insurance in respect of five un-numbered passengers in terms of additional special premium paid. In the alternative on the quantum of compensation on the count that the Tribunal on the basis of bank statements which though reflects the income for each month at different rates lesser than the income taken by the Tribunal. However, the Tribunal has considered the higher income paid at a particular month without there being any evidence to the said fact regarding consistent payment at the same rate. The - 17 - accident occurred during the year 2018. In order to maintain constant income, the income fixed under the Chart prepared by the Karnataka State Legal Services Authority for the year 2018 ought to have been considered by the Tribunal. In these circumstances, the same requires re-consideration at the hands of this Court and sought to allow the appeals to restrict the liability to the extent of Rs.1 lakh as per the policy condition or in the alternative reduce the compensation awarded by the Tribunal by modifying the award in all the appeals, by taking the income fixed under the chart supra.

8. Refuting the submissions of leaned counsel

appearing for the insurance company in all the appeals filed by them, Sri Sanganagouda V. Biradar, the learned counsel appearing for the claimants in the appeals filed by the claimants with all vehemence submitted that deceased were workers working under respondent No.1, while discharging their functions as workers, they are going out from one work site to another work site. During the - 18 - journey, in the accident they succumbed to the injuries. There are two insurance policies produced by the insurance company, in MVC No.177/2019 and other connected matters. Both the insurance policies are issued by the very same insurance company in respect of the very same vehicle covering the same period bearing the same insurance policy number and even the premium paid is also same, however difference in covering the liability. The insurance policy at Ex.R1 states unnamed P.A. cover for five persons each, whereas in Ex.R10 it says unnamed P.A. cover for five persons Rs.1 lakh each. In these circumstances, the Tribunal considering the materials on record properly fastened the entire liability on the insurance company. The only ground under which the appeals are filed are that the Tribunal has not awarded 10% escalation on the compensation awarded under the conventional heads and sought to modify the appeals only to the extent

of 10% escalation. With this, he sought to - 19 - allow the appeals filed by the claimants by dismissing the appeals filed by the appellant - insurance company.

9. Sri B.V. Jalde, learned counsel appearing for the

insured with all vehemence submits that the deceased were the workers under the insured. The capacity of vehicle is 1 + 5, they are statutorily covered. Even the contention of the appellant - insurance is taken on restriction to Rs.1 lakh under Ex.R.10 it is in respect of five other persons to whom the extra premium has been paid. He further submits that in view of another insurance policy at Ex.R1, there is no restriction on liability. The deceased is not covered under Ex.R10, they are covered under Ex.R1, as the insurance policy issued with respect to same vehicle for the same period without any restriction as in Ex.R10. The policy was issued by the insurer is a package policy covering all the workers for which even extra premium is paid. Hence, sought to dismiss both the appeals and sought to retain the order passed by the Tribunal in all the claim petitions. - 20 -

10. Having heard the learned counsel for the parties, perused the records of all appeals as well as the trial Court record, the points that would arise for our consideration are that: 1) Whether the Tribunal is justified in fastening entire liability on the insurance company to make good the compensation in all the appeals?

2) Whether the compensation awarded by the Tribunal is just and proper, if the answer is otherwise, whether same requires any interference at the hands of this Court in all the appeals?

11. Our answer to the above points are as under: Point No.1 : In Affirmative in all the appeals against the insurance company and in favour of the claimants Point No.2 : Partly in Affirmative in all appeals in favour of the appellants-Insurance company and against the claimants for the following: REASONS - 21 -

12. Point No.1: As per the records produced

before the Tribunal, the appellant - insurance company in the claim petitions produced two insurance policies, one at Ex.R.1 and another at Ex.R.10. Both were

issued in favour of single insured for the single vehicle for the same period even premium as well as policy number reflected in the insurance company are also same. The only difference in both the insurance policy is towards liability. The policy act Ex.R1 comes un-named P.A. cover for five persons each. The insurance policy at EX.R10 also comes un-named P.A. cover for five persons but restricts the liability at Rs.1 lakh.

13. To the query of the Court, learned counsel

appearing for the insurer is unable to explain as to why two policies for a single vehicle issued for same period of coverage however difference at liability to pay the compensation. The Act being beneficial legislation, the insurance policy at Ex.R.1 which is in favour of the claimants is considered by this Court. In these - 22 - circumstances, the contention of the learned counsel for the appellant/insurance company in all appeals does not survive for consideration on restricted liability and required to be rejected and accordingly rejected answering point No.1 in affirmative against the insurer holding that the Tribunal has not committed any infirmity in fastening the liability on the insurance company to make good the compensation awarded.

14. So far as quantum of compensation is

concerned, as could be seen from the records i.e., more especially the bank account extract produced in respect of each deceased person. The amount paid for each month in all the bank extracts are not consistent for each following months. The salary paid ranging from Rs.7,000/- to Rs.17,000/- and is not consistent in these circumstances, in the absence of consistent income shown in respect of each worker by the insured, we find force in the argument advanced by Sri Manjunath Mallayya Shetty to consider the income as fixed under the Chart prepared - 23 - by the Karnataka State Legal Services Authority for the year 2018 at Rs.11,750/- p.m. to maintain consistency. In these circumstances, the compensation awarded by the Tribunal requires re-consideration. However, as per the appellants/claimants are concerned, the Tribunal has not awarded compensation under the head 10% escalation on the compensation awarded under conventional heads. Considering the submissions canvassed by both the

counsels, we proceed to re-determine the compensation which comes in each appeal as under.

15. On re-determination and re-consideration in

respect of MFA No.202031/2024 C/w MFA No.203722/2023 (MVC No.177/2019), the claimants are entitled for a total compensation as follows: Heads of compensation Amount Loss of Dependency : Rs. 17,76,600/- $(11,750 + 40\% \times 12 \times 18 \times 50 / 100)$ Loss of consortium : Rs. 80,000/- $(40,000 \times 2)$ - 24 - Funeral Expenses : Rs. 15,000/- Loss of estate : Rs. 15,000/-

10% escalation for each completed : Rs. 22,000/- three years $[80,000 + 15,000 + 15,000 = \text{Rs.} 1,10,000/-$ $(10\% + 10\%)$ TOTAL : Rs. 19,08,600/-

16. Accordingly, the appellants-claimants are

entitled for re-determined reduced compensation of Rs.19,08,600/- as against Rs.22,27,000/-, awarded by the Tribunal. The re-determined reduced compensation shall carry interest at the rate of 6% per annum from the date of filing of the petition till realization.

17. On re-determination and re-consideration in

respect of MFA No.200952/2024 C/w MFA No.203723/2023 (MVC No.178/2019), the claimants/appellants are entitled for total compensation as follows: Heads of compensation Amount Loss of Dependency : Rs. 16,77,900/- - 25 - $(11,750 + 40\% \times 12 \times 17 \times 50 / 100)$ Loss of consortium : Rs. 80,000/- $(40,000 \times 2)$ Funeral Expenses : Rs. 15,000/- Loss of estate : Rs. 15,000/-

10% escalation for each completed : Rs. 22,000/- three years $[80,000 + 15,000 + 15,000 = \text{Rs.} 1,10,000/-$ $(10\% + 10\%)$ TOTAL : Rs. 18,09,900/-

18. Accordingly, the appellants-claimants are

entitled for re-determined reduced compensation of Rs.18,09,900/- as against Rs.20,69,000/-, awarded by the Tribunal. The re-determined reduced compensation shall carry interest at the rate of 6% per annum from the date of

filing of the petition till realization.

19. On re-determination and re-consideration in

respect of MFA No.200950/2024 C/w MFA No.203725/2023 (MVC No.176/2019), the claimants/appellants are entitled for total compensation as follows: - 26 -
Heads of compensation Amount Loss of Dependency : Rs. 22,21,000 /-
[$11,750 + 40\% \times 12 \times 15 \times 3/4 = \text{Rs.} 22,20,750/-$, rounded off to Rs.22,21,000/-] Loss of consortium ($40,000 \times 4$) : Rs. 1,60,000/- Funeral Expenses : Rs. 15,000/- Loss of estate : Rs. 15,000/-

10% escalation for each completed : Rs. 38,000/- three years [$1,60,000 + 15,000 + 15,000 = \text{Rs.} 1,90,000/-$. (10% + 10%) TOTAL : Rs. 24,49,000/-

20. Accordingly, the appellants-claimants are

entitled for a total compensation of Rs.24,49,000/- as against Rs.24,11,000/-, awarded by the Tribunal. The re- determined compensation shall carry interest at the rate of 6% per annum from the date of filing of the petition till realization.

21. On re-determination and re-consideration in respect of MFA No.202465/2024 (MVC No.368/2019), the - 27 - claimants/appellants are entitled for total compensation as follows:

Heads of compensation Amount Loss of Dependency : Rs. 16,77,900/-
($11,750 + 40\% \times 12 \times 17 \times 50/100$) Loss of consortium : Rs. 80,000/- ($40,000 \times 2$) Funeral Expenses : Rs. 15,000/- Loss of estate : Rs. 15,000/- 10% escalation for each completed : Rs. 22,000/- three years [$80,000 + 15,000 + 15,000 = \text{Rs.} 1,10,000/-$. (10% + 10%) TOTAL : Rs. 18,09,900/-

22. Accordingly, the appellants-claimants are

entitled for re-determined reduced compensation of Rs.18,09,900/- as against Rs.22,02,600/-, awarded by the Tribunal. The re-determined reduced compensation shall carry interest at the rate of 6% per annum from the date of filing of the petition till realization.

23. On re-determination and re-consideration in

respect of MFA No.202466/2024 (MVC No.369/2019), the - 28 -
claimants/appellants are entitled for total compensation as follows: Heads of
compensation Amount Loss of Dependency : Rs. 23,68,800/-
(11,750+40%x12x18x2/3) Loss of consortium : Rs. 1,20,000/- (40,000 x3)

Funeral Expenses : Rs. 15,

three years [80,000 + 15,000 + 15,000 = Rs.1,10,000/-. (10% + 10%) TOTAL : Rs.
25,48,800/- Rounded off to Rs. 25,49,000/-

24. Accordingly, the appellants-claimants are

entitled for re-determined reduced compensation of Rs.25,49,000/- as against
Rs.36,07,056/-, awarded by the Tribunal. The re-determined reduced
compensation shall carry interest at the rate of 6% per annum from the date of
filing of the petition till realization.

25. For the foregoing reasons, the points for consideration are answered
accordingly and we proceed to pass the following: - 29 -

ORDER

i) The appeals being MFA Nos.203722/2023, allowed in part. ii) The MFA
No.203725/2023 filed by the appellant - insurance company is dismissed. iii) The
appeals filed by appellant/claimants in MFA Nos.202031/2024, 200950/2024 and

judgment and award dated 28.06.2023 passed by

III Addl. Senior Civil Judge and MACT-XII, at Vijayapura in MVC Nos.176/2019,
177/2019 and supra. iv) The amount in deposit in all the appeals filed by the
Insurance company stated supra shall be transmitted to the concerned Tribunal in
the respective claim petitions forthwith for disbursement. - 30 - v) The balance of
re-determined compensation along with interest at the rate of 6% per annum from
the date of petition till realization in each appeal filed by appellants/insurance

company as well as appellants/claimants shall be deposited by the insurance company before the concerned Tribunal in the respective motor vehicles claim petition within six weeks from the date of receipt of copy of this order. vi) The amount in deposit by the appellant - insurance company before this Court in MFA Nos.202465/2024 and 202466/2024 shall be transmitted to the concerned Tribunal in the respective motor vehicles claim petition for disbursement. vii) The balance re-determined along with accrued interest stated supra in MFA No.202465/2024 and company before the concerned Tribunal in - 31 - respective claim petitions within six weeks from the date of receipt of copy of this order. viii) Disbursement as well as apportionment in the

respective claim petitions is as per the order

passed by the Tribunal. ix) Any deposit by the appellant/insurance company either entire or substantive amount in terms of this court if exceeds the redetermined compensation the excess compensation deposited shall be returned to the appellant/insurance company. x) No order as to costs. Sd/- (H.P.SANDESH) JUDGE Sd/- (T.M.NADAF) JUDGE BL List No.: 1 Sl No.: 25 CT:JLR

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