



NC: 2025:KHC-D:15224-DB
MFA No. 103952 of 2023
C/W MFA No. 100507 of 2023
MFA.CROB No. 100165 of 2022
AND 1 OTHER

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 6TH DAY OF NOVEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 103952 OF 2023 (MV-D),

C/W

MISCELLANEOUS FIRST APPEAL NO. 100507 OF 2023 (MV-D),

MFA CROSS OBJ NO. 100165 OF 2022 (MV-D),

MFA CROSS OBJ NO. 100079 OF 2025

IN MFA NO. 103952/2023
BETWEEN:

THE DIVISIONAL CONTROLLER
AND SELF-INSURER OF BUS NO.KA-35/F-70,
HOSAPETE DEPOT, TALUK. HOSAPETE, DIST.
BALLARI,
REPRESENTED BY CHIEF LAW OFFICER,
NEKRTC, CENTRAL OFFICE, KALBURAGI.

...APPELLANT

(BY SRI. S.C. BHUTI, ADVOCATE)

AND:

1. ASIFA @ ASIFA BEGAUM
W/O. LATE DADAPEER CHIMANA
AGE. 26 YEARS, OCC. HOUSEHOLD,
2. ALFANAJ D/O. LATE DADAPEER CHIMANA
AGE. 6 YEARS, MINOR,
3. AFRANAJ D/O. LATE DADAPEER CHIMANA
AGE. 5 YEARS, MINOR,

MOHANKUMAR
B SHELAR



Digitally signed by
MOHANKUMAR B
SHELAR
Location: HIGH
COURT OF
KARNATAKA
DHARWAD BENCH



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4. APIYANAJ D/O. LATE DADAPEER CHIMANA
AGE. 5 YEARS, MINOR,
5. DIYANAZ D/O. LATE DADAPEER CHIMANA
AGE. 3 YEARS, MINOR,
6. HASEENA W/O. HUSENASAB CHIMANA
AGE. 51 YEARS, OCC. HOUSEHOLD,
7. SHABANA D/O. HUSENASAB CHIMANA
AGE. 25 YEARS, OCC.HOUSEHOLD,
8. WAHIDA D/O. HUSENASAB CHIMANA
AGE. 23 YEARS, OCC. HOUSEHOLD,
9. SUHELA S/O. HUSENASAB CHIMANA
AGE. 20 YEARS, MINOR,
10. HUSENASAB S/O. KHAJASAB CHIMANA
AGE. 53 YEARS, OCC.NIL,

SINCE RESPONDENT NO.2 TO 5 ARE
MINORS U/G OF THEIR
NATURAL GUARDIAN MOTHER
ASIFA @ ASIFA BEGUM I.E. RESPONDENT NO.1,

SINCE, RESPONDENTS NO.9 IS MINOR
U/G OF THEIR NATURAL GUARDIAN MOTHER
I.E. RESPONDENT NO.6.

ALL R/O. H.NO.1/2/230/12,
SHRISHAIL NAGAR, KOPPAL,
TQ: DIST: KOPPAL-583231.

11. BASAVARAJ JOOLKATTI
AGE. MAJOR, OCC. DRIVER OF
BUS NO.KA-35/F-70,
HOSPETE DEPOT., DIST. BALLARI,
R/O. MALKAPUR VILLAGE,
TQ. KUSHTAGI, DIST. KOPPAL-583231.

...RESPONDENTS

(BY SRI. M. AMAREGOUDA FOR R1 AND R2;
NOTICE SERVED TO R3)



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THIS MFA IS FILED U/S.173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 23.02.2023 PASSED IN MVC NO.458/2020 ON THE FILE OF THE SENIOR CIVIL JUDGE (SR. DN) AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, KOPPAL IN THE INTEREST OF JUSTICE AND EQUITY.

IN MFA NO. 100507/2023
BETWEEN:

THE DIVISIONAL CONTROLLER, NEKSRTC
HOSAPETE,(OWNER OF THE SELF INSURER OF
NEKSRTC
BUS NO.KA-35/F-0070)

REPRESENTED BY CHIEF LAW OFFICER,
NEKRTC, CENTRAL OFFICE, KALABURAGI.

...APPELLANT

(BY SRI. S.C. BHUTI, ADVOCATE)

AND:

1. SMT. GOURAMMA W/O. GAVISIDDAPPA SIDHANUR
AGE. 52 YEARS, OCC. HOUSEHOLD,
2. LAXMI D/O. GAVISIDDAPPA SIDHANUR
AGE. 26 YEARS, OCC. HOUSEHOLD,
BOTH ARE R/O. SRISHAILANAGAR, KOPPAL,
TQ. AND DIST. KOPPAL 583231.
3. BASAVARAJ S/O. MUDUKAPPA JOOLKATTI
AGE. MAJOR, OCC. DRIVER OF NEKSRTC
BUS NO.KA-35/F-0070,
NEKSRTC DEPOT, HOSAPETE,
DIST. BALLARI 583201.

...RESPONDENTS

(BY SRI. SOUBHAGYA S. VAKKUND, ADVOCATE FOR R1
AND R2; NOTICE SERVED TO R3)

THIS MFA IS FILED UNDER SECTION 173(1) OF
MOTOR VEHICLE ACT, 1988, PRAYING TO SET ASIDE THE



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JUDGMENT AND AWARD DATED 06.01.2022 PASSED IN MVC NO.495/2020 ON THE FILE OF THE CIVIL JUDGE (SENIOR DIVISION) AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, KOPPAL IN THE INTEREST OF JUSTICE AND EQUITY.

IN MFA.CROB NO. 100165/2022
BETWEEN:

1. SMT. GOURAMMA W/O. GAVISIDDAPPA
AGE: 50 YEARS, OCC: HOUSEHOLD,
2. LAXMI D/O. GAVISIDDAPPA SINDHANUR
AGE: 24 YEARS, OCC: HOUSEHOLD
BOTH ARE R/O. SRISHAILA NAGAR,
KOPPAL, TQ. AND DIST. KOPPAL-583231.
...CROSS OBJECTORS
(BY SMT. SOUBHAGYA S. VAKKUND, ADVOCATE)

AND:

1. BASAVARAJ S/O. MUDUKAPPA JOOLKATTI
AGE: MAJOR OCC: DRIVER OF NEKSRTC
BUS NO.KA-35/F-0070,
NEKSRTC DEPOT., HOSAPETE,
DIST. BALLARI-583101.
2. THE DIVISIONAL CONTROLLER,
NEKSRTC, HOSAPETE,
OWNER AND SELF INSURER OF
NEKSRT BUS NO.KA-35/F-0070).
...RESPONDENTS
(BY SRI. S.C. BHUTI, ADVOCATE FOR R2;
R1-DISPENSED WITH)

THIS MFA.CROB IS FILED UNDER ORDER 41 RULE 22 OF CPC R/W SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 06.01.2022 PASSED IN MVC NO.495/2020 ON THE FILE OF THE CIVIL JUDGE (SR.DN) AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, KOPPAL, BY



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ENHANCING THE COMPENSATION FROM RS.22,04,882/- TO
RS.40,00,000/- TO THE CROSS OBJECTORS AND ETC.,.

IN MFA.CROB NO. 100079/2025
BETWEEN:

1. ASIFA @ ASIFA BEGAUM
W/O. LATE DADAPEER CHIMANA
AGE. 28 YEARS, OCC. HOUSEHOLD,
2. ALFANAJ D/O. LATE DADAPEER CHIMANA
AGE. 08 YEARS, MINROR,
3. AFRANAJ D/O. LATE DADAPEER CHIMANA
AGE. 08 YEARS, MINOR,
4. APRIYANAJ D/O. LATE DADAPEER CHIMANA
AGE. 07 YEARS, MINOR,
5. DIYANAZ D/O. LATE DADAPEER CHIMANA
AGE. 05 YEARS, MINOR,
6. HASEENA W/O. HUSENASAB CHIMANA
AGE. 53 YEARS, OCC. HOUSEHOLD,
7. SHABANA D/O. HUSENASAB CHIMANA
AGE. 27 YEARS, OCC. HOUSEHOLD,
8. WAHIDA D/O. HUSENASAB CHIMANA
AGE. 25 YEARS, OCC. HOUSEHOLD,
9. SUHELA S/O. HUSENASAB CHIMANA
AGE. 22 YEARS, OCC. STUDENT,
10. HUSENASAB S/O. KHAJASAB CHIMANA
AGE. 55 YEARS, OCC. NIL,

SINCE PETITIONER NO.2 TO 5
ARE MINORS U/G OF THEIR
NATURAL GUARDIAN MOTHER
ASIFA @ BEGUM I.E. CROSS OBJECTOR NO.1.



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ALL ARE R/O.H.NO.1/2/230/12,
SRISHAILA NAGAR,
KOPPAL, TQ. DIST. KOPPAL.

...CROSS OBJECTORS

(BY SRI. M. AMAREGOUDA, ADVOCATE)

AND:

1. BASAVARAJ JOOLKATTI
AGE. 48 YEARS,
OCC. DRIVER OF BUS NO.KA35/F70,
HOSPET DEPOT, DIST. BALLARI,
R/O. MALKAPUR VILLAGE,
TQ. KUSHTAGI, DIST. KOPPAL-583288.
2. THE DIVISIONAL CONTROLLER
AND SELF INSURER OF
BUS NO.KA35/F 70 HOSPET (VIJAYANAGAR) DEPOT,
TALUK. HOSPET/VIJAYANAGAR,
DIST.BALLARI/VIJAYANAGAR-583201.

...RESPONDENTS

(BY SRI. S.C. BHUTI, ADVOCATE FOR R2;
R1 DISPENSED WITH)

THIS MFA.CROB IS FILED UNDER ORDER 41 RULE 22 OF CPC PRAYING TO MODIFY THE JUDGMENT WAS DELIVERED THEREIN AS UNDER: AND AWARD DATED 23.02.2023 PASSED BEFORE IN THE COURT OF THE CIVIL JUDGE (SR.DN) AND ADLL. MACT AT KOPPAL IN M.V.C.NO.458/2020 AND ENHANCE THE COMPENSATION AS CLAIMED IN THE ABOVE CROSS OBJECTION, IN THE INTEREST OF JUSTICE AND EQUITY.

THESE APPEALS AND CROSS OBJECTIONS, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S G PANDIT
AND
HON'BLE MRS JUSTICE GEETHA K.B.



ORAL JUDGMENT

(PER: HON'BLE MRS JUSTICE GEETHA K.B.)

MFA No.103952/2023 and MFA Crob. No.100079/2025 are filed challenging the judgment and award dated 23.02.2023 passed in MVC No.458/2020 on the file of Senior Civil Judge and Additional MACT, Koppal (for short, 'Tribunal').

2. MFA No.100507/2023 and MFA Crob. No.100165/2022 are filed challenging the judgment and award dated 06.01.2022 passed in MVC No.495/2020 on the file of Senior Civil Judge and Additional MACT, Koppal.

3. The above said appeals are filed by the insurer challenging the liability and cross-objections are filed by the claimants praying for enhancement of compensation in the above two appeals respectively under Section 173(1) of Motor Vehicles Act, 1988 (for short, 'Act').



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4. The parties would be referred with their rankings as they were before the Tribunal for convenience and clarity.

5. The case of claimants in both cases before the Tribunal in nutshell is that on 02.07.2020 at about 1-1.15 p.m. deceased Dadapeer being pillion rider and Sunil Kumar being rider of the motorcycle bearing registration No.KA-36/EE-9039 were proceeding on Hospet-Gadag NH-63 bypass road near Chukkanakal Cross, Hospet-Gadag NH-63 bypass, respondent No.1 came from Hospet side by driving NEKRTC bus bearing registration No.KA-35/F-70 and dashed to the motorcycle and thereby caused the accident. Due to the accident, both of them have sustained grievous injuries. Dadapeer died at the spot and Sunil Kumar died while on the way to hospital for treatment. Hence, claim petitions came to be filed by the claimants seeking compensation.



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6. In MVC No.458/2020, it is further averred that the deceased Dadapeer was working as beldar mason, earning ₹.18,000/- per month and maintaining his large family. Due to his sudden death, petitioners lost their bread earner. Petitioners are his wife, children, parents, sisters and brother. Hence, prayed for just compensation.

7. In MVC No.495/2020, it is further averred that prior to the accident deceased Sunil Kumar was working as painter and earning ₹.30,000/- per month and was contributing the entire income towards his family. Claimants No.1 and 2 are his mother and unmarried sister. They have lost the bread earner of their family, who was supporting in the old age of claimant No.1. Claimant No.2 was unmarried sister. They were entirely depending on the income of the deceased. The accident occurred only due to rash and negligent driving of the driver of NEKRTC bus. Hence, prayed for just compensation.



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8. After service of notice, respondent No.2 appeared through its counsel and filed written statement. In the written statement it contended that the accident occurred due to negligence of the rider of motorcycle who was not having valid driving licence, who came across and dashed against the bus and thereby caused the accident. Hence, it is not liable to pay the compensation. It also contended that the owner and insurance company of the motorcycle are also necessary parties to the petitions and petitions are bad for non-joinder of necessary parties. Hence, prayed for dismissal of petitions.

9. In MVC No.458/2020, on behalf of claimants, claimant No.1 was examined as P.W.1, got marked Exs.P.1 to P.10 and closed their side; on behalf of respondents, the driver of the bus was examined as R.W.1, got marked Exs.R.1 to R.3 and closed their side.



10. After recording evidence on both sides and hearing arguments of both sides, the Tribunal has awarded compensation at ₹.33,46,600/- in MVC No.458/2020.

11. In MVC No.495/2020, claimant No.1 was examined as P.W.1, got marked Exs.P.1 to P.9 and closed their side; On behalf of respondents, driver of the bus was examined as RW.1 and closed its side.

12. After recording evidence of both sides and hearing arguments of both sides, the Tribunal has awarded the compensation at ₹.22,04,882/- in MVC No.495/2020.

13. Challenging the entire liability fastened upon respondent No.2, the aforesaid appeals are filed by the insurer. After filing these appeals, respective cross-objections are filed by the claimants in both appeals praying for enhancement of compensation.

14. Learned counsel for the appellant-insurer in both appeals Sri S.C.Bhuti would submit that the rider of motorcycle was not having valid and effective driving



licence to ride the said motorcycle. It is only because of his negligence, the accident happened. Thus, he submits that contributory negligence is to be attributed to the rider of the motorcycle.

15. He would further submit that in MVC No.458/2020, claimants No.7 to 9 are sisters and brother of deceased and thus they are not entitled for compensation and even they are not entitled for consortium. Hence, the compensation awarded by the Tribunal is exorbitant.

16. He would further submit that the Tribunal has taken the income of deceased in MVC No.495/2020 at ₹.14,000/- instead of ₹.13,750/- as per the guidelines of KSLSA for Lok-Adalat. Hence, prayed for modification of the award in both cases.

17. Learned counsel for claimants in both cases Sri M.Amaregouda would submit that the compensation under the heads-loss of estate, consortium, funeral expenses



were not properly assessed by the Tribunal, 10% escalation charge is not given and the compensation awarded by the Tribunal under these heads is insufficient. Hence, prayed for enhancement of compensation.

18. Having heard the learned counsels for the parties and on perusal of the appeal papers including the original records, the following points would fall for consideration in these appeals:

- 1) Whether the appellant-insurer in both appeals prove contributory negligence on the part of rider of the motorcycle?
- 2) Whether claimants No.7 to 9 in MVC No.458/2020 being the sisters and brother of the deceased are entitled for compensation?
- 3) Whether enhancement of compensation as prayed is required in the cross-objections?

19. Answer to point No.1: The IMV report reveals that there were damages to the front bumper at middle of NEKRTC bus, whereas there was damages to front both



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sides fork, indicators, headlight assembly, handle, fuel tank, right side battery cover and rear left side indicator of motorcycle.

20. According to RW.1, it is the rider of motorcycle, who came from cross road and dashed against the bus. He admitted in his cross-examination that if accident happened in the similar manner, then there shall be damage to the right side of the bus. However, as stated above, IMV report does not reveal damage to the front right side of the bus, but front bumper in the middle of the bus was damaged. Under those circumstances, the say of appellant-insurer that there is contributory negligence on the side of rider of the motorcycle is not correct.

21. Even though rider of motorcycle has not produced the driving licence, as the accident happened only due to rash and negligent driving of driver of the bus, non-production of driving license of the rider of motorcycle is not fatal to the case of claimants. Hence, the



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contention of appellant-insurer that there was contributory negligence on the side of the rider of motorcycle cannot be accepted. Accordingly point No.1 is answered in ***negative***.

22. Answer to point No.2: In MVC No.458/2020, there are 10 claimants i.e., wife and minor children of deceased (claimant No.1 to 5), claimant No.6 and 10 are parents of the deceased, claimant No.7 and 8 are sisters and claimant 9 is brother of deceased. Even though the age of brother of deceased was shown as minor in the claim petition, in the cross-examination, PW.1 has categorically admitted that he was working as gounder at the time of accident and he is major. Hence, claimant No.9 being the major brother of deceased and claimant No.7 and 8 being the married sisters of deceased are not entitled for any compensation. Accordingly point No.2 is answered in ***negative***.

23. Answer to point No.3: Admittedly, in MVC No.458/2020 deceased has left behind his wife, minor



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children, parents i.e., more than 5 dependents. Hence, as per the dictum of ***Sarla Verma and Others vs. Delhi Transport Corporation and Another*** reported in **(2009) 6 SCC 121** case, 1/5th of the income of the deceased is to be deducted towards his personal and living expenses which is rightly made by the Tribunal. There was no fixed salary to the deceased and no document is produced to show his actual income. Hence, by relying upon the guidelines of KSLSA, his notional income was considered at ₹.13,750/-. He was aged about 28 years at the time of accident. Hence, the relevant multiplier 17 was adopted by the Tribunal.

24. Relying upon the judgment of Hon'ble Apex Court in the case of ***National Insurance Company Limited vs. Pranay Sethi and Others*** reported in **(2017) 16 SCC 680**, towards future prospects, 40% was added to his income and 1/5th of income was deducted. Thus, the Tribunal has corrected awarded the



compensation under the head loss of dependency at ₹.31,41,600/-, which needs no interference.

25. Towards the loss of estate and funeral expenses, the compensation of only ₹.15,000/- was awarded by the Tribunal; whereas, according to the *Pranay Sethi's* case cited supra, 10% escalation is to be added. Thus, claimants are entitled for compensation at ₹.16,500/- under the heads loss of estate and towards funeral expenses. Further, claimants No.1 to 6 and 10 are entitled for compensation at ₹.44,000/- each, which totally amounts to ₹.3,08,000/- towards consortium.

26. Claimants No.7 to 9 are not entitled for compensation and even it is not granted by the Tribunal. Thus, the total compensation awarded by the Tribunal is to be modified as under:

Sl. No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Loss of dependency	₹.31,41,600/-,	₹.31,41,600/-
2	Loss of estate	₹.15,000/-	₹.16,500/-



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3	Funeral expenses	₹.15,000/-	₹.16,500/-
4	Consortium	₹.2,00,000/-	₹.3,08,000/-
	Total	₹.33,71,600/- Less interim compensation paid by NEKRTC ₹.25,000/- = ₹.33,46,600/-	₹.34,82,600/- Less interim compensation paid by NEKRTC ₹.25,000/- = ₹.34,57,600/-

27. In MVC No.495/2020, the Tribunal has taken the income of deceased at ₹.14,000/-, whereas when there was no document to depict the actual income, notional income as per the guidelines of KSLSA is to be taken, which is ₹.13,750/- for the accident happened in the year 2020. He was aged 20 years as on the date of accident. Hence, relevant multiplier would be 18. The deceased has left only his mother and unmarried sister. He was a bachelor. Hence, 50% of his income is to be deducted towards his personal and living expenses. Further, as per **Pranay Sethi's** case 40% is to be added to his income towards future prospects. Hence, the claimants are entitled for the following compensation under the head of loss of dependency:



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₹.13,750 + 40% = ₹.19,250 less 50%

₹.9,625 x 12 x 18 = ₹.20,79,000/-

28. Towards funeral expenses and loss towards estate, ₹.16,500/- instead of ₹.15,000/- is to be awarded. The deceased has left behind only his mother and unmarried sister. His mother is entitled for consortium at ₹.44,000/- as per **Pranay Sethi's** case as stated above. However, his sister is not entitled for consortium. The compensation awarded by the Tribunal towards medical expenses needs no interference.

29. Thus, the total compensation awarded by the Tribunal is to be modified as under:

Sl. No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Loss of dependency	₹.21,16,800/-	₹.20,79,000/-
2	Loss of estate	₹.15,000/-	₹.16,500/-
3	Funeral expenses	₹.15,000/-	₹.16,500/-
4	Filial Consortium	₹.40,000/-	₹.44,000/-
5	Medical expenses	₹.18,082/-	₹.18,082/-
	Total	₹.22,04,882/-	₹.21,74,082/-



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30. Accordingly point No.3 is answered ***partly in affirmative***. In view of the above, we proceed to pass the following:

ORDER

- a. MFA No.103952/2023 and MFA Crob. No.100165/2022 are dismissed;
- b. MFA No.100507/2023 filed by the insurer and MFA Crob. No.100079/2025 by the claimants are partly allowed;
- c. Judgment and award dated 23.02.2023 passed in MVC No.458/2020 on the file of Senior Civil Judge and Additional MACT, Koppal and judgment and award dated 06.01.2022 passed in MVC No.495/2020 on the file of Senior Civil Judge and Additional MACT, Koppal are hereby modified;
- d. Claimants No.1 to 6 and 10 in MVC No.458/2020 are entitled for compensation of ₹.34,57,600/- as against ₹.33,46,600/- awarded by the Tribunal.



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- e. Claimants in MVC No.495/2020 are entitled for compensation of ₹.21,74,082/- as against ₹.22,04,882/- awarded by the Tribunal.
- f. The compensation in both the cases shall carry interest at 6% per annum from the date of petition till realization.
- g. The claimants in MFA Crob. No.100079/2025 are not entitled for interest on the enhanced compensation for the delayed period of 559 days as per order dated 10.10.2025.
- h. As far as apportionment, disbursement and allotment of compensation to each claimants by the Tribunal is concerned, the same is unaltered.
- i. Insurer shall deposit the compensation amount within eight weeks from the date of receipt of the certified copy of this order.



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j. Amount in deposit, if any, is ordered to be transmitted to the Tribunal forthwith.

k. Registry to draw modified award accordingly.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE

Sh CT-CMU
LIST NO.: 1 SL NO.: 41