

THE HON'BLE SRI JUSTICE N.BALAYOGI

M.A. C.M.A. Nos.816 of 2010 and 2498 of 2011

COMMON ORDER :

M.A. C.M.A. No.816 of 2010 :

The Insurance Company, who is respondent No.2 in the O.P.No.1389 of 2006, aggrieved by the Award and Decree dated 6.1.2010 in O.P.No.1389 of 2006, preferred this appeal contending that the claimants have not established the involvement of lorry bearing No.KA 38 3471 and that the document filed by the claimants are self-contradictory, as according to Ex.A7, the DCM van hit the motorcycle and according to Ex.A10, the deceased himself hit to a tree, but the claimants have not explained the discrepancy of the documents and the evidence of P.W.1. It is further contended that the evidence of P.W.2 cannot be believed as he stated that the police visited the spot immediately after receiving the complaint. In fact, the complaint itself has been given after 15 days, so as to how they reached the spot and how the vehicle is lying on the spot for 15 days on the road is not explained. P.W.2 is a friend of the deceased, hence his evidence cannot be relied.

M.A. C.M.A. No.2498 of 2011 :

Per contra, claimants preferred counter claim in the same O.P. No.1389 of 2006 contending that the Tribunal failed to consider the evidence of P.Ws.1 and 2 with regard to the accident and also

