IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4th DAY OF MARCH, 2020

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

M.F.A.NO.6937/2014 (MV)

BETWEEN:

Sharanagowda @ Sharanappagowda
S/o Ninganna
Aged about 40 years
Gowripura Village, Dudda Hobli
Hassan Taluk and District.

Dead by LR's

1. Devamma
   W/o late Sharanagowda @
   Sharanappagowda,
   Aged about 40 years

2. Ninganagowda
   S/o late Sharanagowda @
   Sharanappagowda,
   Aged about 17 years

3. Neelagangamma
   S/o late Sharanagowda @
   Sharanappagowda,
   Aged about 14 years

4. Gowramma D/o late Sharanagowda @
   Sharanappagowda,
   Aged about 12 years

5. Hanumegowda

S/o late Sharanagowda @
Sharanappagowda, Aged about 9 years

6. Basamma W/o late Ninganna
Aged about 70 years

Appellant Nos. 2 to 5 being Minor
Represented by their Natural Guardian
Mother Appellant No.1 Devamma.

All the appellants above are the
Resident of Gowripura Village,
Dudda Hobli,
Hassan Taluk and District-573 201.

...Appellants

(By Sri Girish B. Baladare, Advocate)

AND:

1. The Branch Manager
The Oriental Insurance Co. Ltd.,
Sharada Complex, Subhash Square,
Hassan-573 201.

2. Mohan Kumar S/o Thimmegowda
Aged about 34 years
B.Katenahalli Koppalu
Arasikere Road
Hassan-573 201.

...Respondents

(By Sri M.Narayanappa, Advocate for R1;
R2-Notice is dispensed with vide Court order
dated 2.2.2015)

This MFA is filed under Section 173(1) of MV Act, against the judgment and award dated 23.06.2014 passed in MVC No.159/2009 on the file of the II Additional District and Sessions Judge, Additional

MACT, Hassan, partly allowing the claim petition for compensation and seeking enhancement of compensation.

This MFA coming on for Admission this day the Court delivered the following:

JUDGMENT

The appellants are before this Court being aggrieved by the judgment dated 23.6.2014 passed by II Additional District and Sessions Judge, Additional MACT, Hassan, in MVC No.159/2009.

2. The facts in brief is that the appellants are the legal representatives of one Sharanagowda who has suffered accident on 8.7.2008 and he was shifted to Government Hospital, Hassan. Thereafter, referred to Nimhans Hospital, Bengaluru, where he was treated for a period of four months.

3. During the course of and subsequent to treatment he developed several complications pursuant to which he expired on 15.4.2009. The tribunal has dismissed the claim on account of death

of Sharanagowda, but has only awarded certain amount towards medical expenses.

4. Counsel for the appellants would submit that the accident is the cause of death, however, they are not able to lead sufficient evidence and given an opportunity. If the matter is remanded back, they would be in a position to establish the nexus between the injury and death.

5. Learned counsel for the respondent would however submit that the appellants had opportunity, but they have not been able to establish the nexus. Therefore, this Court ought not to remand back the matter, the same would only delay the proceedings.

6. Heard the learned counsel for the appellants and the respondent. Perused the case papers.

7. Having perused the papers it is seen that the accident is not in dispute. The head injury which has been caused to Sharanagowda the deceased is not in

dispute. It is also not in dispute that he was referred for treatment to Nimhans Hospital, Bengaluru. Such reference is obviously for serious head injuries. It is stated that during that time, Sharanagowda was laid up in bed completely, thereafter he developed bedsores and on account of bedsores, he expired. Though the cause of death is infection on account of bedsores, at this stage it cannot be said that bedsores was not on account of he being laid up due to head injury. There appears to be some sort of connection between injury caused during the accident and the death. Therefore, I am of the considered opinion that the appellants should be given adequate opportunity to lead evidence in support of their case.

8. Hence, the judgment in so far as dismissal of the claim for compensation on account of death of Sharanagowda is set aside. The matter is remanded back to II Additional District and Sessions Judge and Additional M.A.C.T., Hassan. The said Court shall offer equal opportunity to both the parties to lead

their evidence and cross-examine the witnesses, as also to produce further documents that they may intend to.

In view of the remand, appellants would not be entitled for interest from the date of remand till final judgment by the M.A.C.T. Hassan.

Both the parties are directed to appear before the M.A.C.T., Hassan, on 3.4.2020 without any notice. However, the M.A.C.T., Hassan would have to issue notice to the owner of the vehicle before going forward with the matter.

Sd/-
JUDGE

*AP/-