Karnataka High Court

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The Branch Manager The Oriental ... vs Smt Sakamma on 7 January, 2010 Author: Anand Byrareddy
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IN THE, HIGH COURT OF KARNATAKA AT
DATED THIS THE 7"' DAY Q}: JANIJAR§<...20~ii<)«. ___,4 "
BEFORE; i
THE HON' BLE MR. JUST.EVCBxANiA\\il D.13\\ii\\ii\\iRE\)E5Y
WRIT PETITION No. :e2é§*; 40'i<i 20()i6i(GM-.!iC')
BETWEEN:
        i *
The Branch Maii:;ige._r, " A
The Oriental irisufgnce C--_Ompe1"ny 'Li;Ti--i"tec3_,_.}
Opposite t0,KEIB__ (}..Efi--{:e',
«M.C.R:eiidiiiMéifi;1y_;1':'§.4iiV'
Represellte'd'b3r the.fA4sis»isiiinffs/Iiunagel',
The Oi'iei::; ai' Ensuif; mce-Ci':---mfa;5::1'Eiy Limited,
Regionai Oi'i'ic6'- A
Leo .Sn'oppialg €()Vi"npiEex,'
 '~ N(:..;:}4j3;ifiE-/5§5VA, Reside fiey----R<)ad,
, Ba;1g;a1Q'ref546()._025. ...PETITIONER
 Advocate)
  Smt.Sak' amma,
V' -- Wife. ofChikkad21segowda,
Aged about 46 ye.a1's,
Residing at Yeraganahalii,
Maddur Taluk,
Mandya I)isu'ieI.
Ix.)
2. Sri.B.Ra\/E,
Son of Biligowda,
Aged about 37 years.
Residing z1tNo.74/A, 10* Main,
l\/lanjunatha Nagar,
Bangaiore-- .3 0. .. .. 9
(By M/s.K.S.Sreei<anth As.<;ocitltes i:.;_ike::"i1<)t'ice*..tori'Riesl§ro_iteleiiits
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Respondent No 2 served) ' " A

This Writ Petition in "tiiled'iun(iie'iii.g\strti'cfles 2216'iaiid 227 of the Constitution of India prayiiig'tt3"'t; VLi:n\s\; h the jucignient and award at Annexure A and dateti....9itl--.2.2_oOe\sqrt{p"asSed_----b'y} the Civil Judge (Senioi'VVDiyi_s'ion) Claims Tribunal, \l\/Iaddur in MVCf.No.8i84\{2(\s\c)\})'Van.cl'ett:., _.

Thie_Wr_jt .f'eti'tiio'n on for h.earii1g this day, the Court made the fti□owving: ~_- A C 'ante ____ ORDER C He:1:rd».itl1eiCounsel for the petitioner.

2. V. 'oetitioner is the insurer of the offending vehicle "-which iv;__a;__=.l\[involved in a motor accident. The occupants of the _ ive'iti.r:le who were injured, namely, the mother and her daughter,

-had sought for compensation on account of the injuries suffered in the accident. The petitioner herein had entered 2-appearance before the Motor Accidents Claims Tribunal and had disputed the liability, on 21 specific contention that the vehicle. invt)lve*:l was a goods carrying vehicle and the claimants were...Linat1'tl'ierii'; »i¢d passe.ngers travelling in 21 goods vehicle. The .Tt'iilitln£t_l"'ht)Wt3V'€_if, has failed to address the objection and has pifoce.eded._t("r i compensation and has fastened -l__iabilit3r_o'n the; 'peti.:ione_t. 'The: petitioner has been precluded filing .a't1..:i;1]_ipezifl under the Motor Vehicles Act, 1933 iniviejwio't'.i;Seicit.ion 173 which lays down 2i.1tifi_eai.iii2\iii;ild»..i9;'ot be_iiiinziintainable if the award is less than Rs.il' $\{1,(.i\{f\}()/--'tind \Box t.is''*in''tli'i's background that the present writ petition is filed as the$ petitioner is Eeft with no remedy, the First iitforination Report, it was stated in the iii'i.rs't'__instaneve ti.iVi1t"'.the'in_§ured claiinants were waiting on the road V . for View of the offending lorry having picked them unauthorised passengers, it not open for them to 'contend that they were travelling as owners of the goods, who were the clziimzlnts bet'ore. the Motor Accident Claims Tribtinztl, such a stand on the part of the claimarit--respondents being C()1lll'£;':l'y to the record is being overlooked by the Tribuiia..l_iitnd the liability has been ineoiweetly fastened on the petitioijef.' -1- V

3. Given this circumstance and in vie\t:"of-- .t.'hefeSp'onder1'ts, not having chosen to contest the [fr-.,1f€-SE;'I"1{..'ep€lel[_i(}n,ii' the:"e&>_a⊡e' is allowed. The liability insofar as the petit-ioner isi..co=j_ce--I1te£i, is set' aside. The claimants are left at_Iibe11:y"t¢)workmtt their' remedies its signing: the owner of the 'vei1ielefE'~