

Karnataka High Court

Smt Hanamavva W/O Veerappa @ ... vs The Branch Manager United India ... on 28 May, 2008

Author: Anand Byrareddy

& myshra; cmamheaua P Pulil, AdvocaIn)

V 1 The Branch Manager

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IN Ififi flfifi COURT OF QAEEATAKA AT  
BANGALORE

DATED THIS THE 23"' DAY OF MAY L %  
BEFORE: %  
THE HON'BLE MR. JUSTICE  
MISCELLANEOUS FIRST 1 % %%  
BETWEEN:

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R/'c-uB\$a;mapu'r "  
Taluieand ',tK<:'ppal,  
; New resfizlzig '81 C30 Iuyavva  
3 wxjo 'ivladiwalat,  
" Hotel,  
' " V Circle

% % APPELLANT

United India Insurance Company Limited  
P.B.No.7S, Lazmi Bazaar,

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% xvsm of Vehicles Act against the gnaw and award  
'dstbe!:\_(!j'('i8i2{X}6 passed in we no. 5212092 on the me ofthe  
"'Ad:il. cem (Sr.Dn) &. Add}. MACT, Gadag, partly

H V' . enhance" szfneniof compensation.

\_ " 4\_ Miscullanwus Final 15% coming on Ibr having  
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2 A Mahantesh

S/0 Adivappa

Age: Major \_ '

000: Owner Of Tempo \_ \_ \_ V  
bearing its \_  
Reg.No.Kn-01-M-4484, '"  
Taiuk Hiriyur, ' " ~ , \_

3 Sml.Lalilav\_va  
W/o \_  
a:ldI\*El'\$ot:s~?Lholt;'. .  
"  
'3f'aluq"and .

(By Sim" uM,U for Respundcnfi No.1)  
shrj. code "I€agaraja'-, Advocate for R-3,R-2 dispensed

~ Miscisiianiatrixs First Appeal is filed under Section

al'iQvi?ing\_ .t'i'zé\_ Aélaim petition for compsansb n & mm' g  
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JUDG&T

Heard the Cmmsel for the uppel and «  
the respondeni.

2. The fimls as are Jxgluvmgi---\$:\$fr"L!h6 appeal

that motor accident  
invulving which, a claim was use

for H "i{f'jg was  
engioyed as a vehicle (Bulldozer).  
The Tribunal wmg ..w.H.a;..g has Edam [he

i.n-mgij \*'~'a,¥.,3is.SV\$}-"per dayamd W "W , E9353'

Further in awarding the

25% of 113:: amount in favour of

in flavour of tin: widow of the driver.

2 lhewiow befun: this Court challenging the

uf the income of the dweasui and to

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apportion higher amount of compensation in fiveafsi'  
appellant.

3. The Counsel fur the Wnmiwmm gm

d% was admittedly mvow; if; \$vhila

opcraling a bulldozer who  
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earning "" 1" \_ The  
Tribunal has unnpiemxy this aspect of the mum-  
a:ld\_\_hcnLw:\_f\$h& smo;1::'i.. .;.,;npçnsaaun would have to be  
\_lhal the: inunmc of the (1% was

he wcml d paint out lint since. the aqapellanl 'm

4:\$hc \$;\$\*ould now receive and being class-I rm, lhe Tribunai was

juslified in making unequal dislzibuion of 25:75 in flavour

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of the appellant llfld the thin! respondent

would submit that then: is no justiçatigm K unequal apportionment mt! that he be div1ded' equally  
in thvourV'u.ti'i;\$1e t t;? 'third L submit um % lion am the ram that the was no evidence of the to  
operate a bulldozm. In such 91 nnpunsatk m on the basis that the aw téami:\$g%Rs.so;-- per day and  
themçns the claim V .1 xsis 'not justiçil. The insurer not having award by itself would not entitle  
the appellant to the 11% was a driver of n Mllécmsr, in the of any evidence mu! hence there is no  
case Rx Hmhuncement.

6. Insulin' as the nppmlionmwa of \_ compensaliem is concerncd, lhc for '\*  
submitmmhehasmatyinwemutiç A' 1 'V' V 7.11": Counsel ram hand would submii lhal imam k% is  
ennoemed, having is aged and nu ma its discmlion has awmdud a Inge; the third reaptmdemt. ms is  
{incl am they both are am- I knit: . regard In the relative age of the claimants. ' H the Counsel would  
submit that Emu is no warrant on the ground ofappnwtionmmt. T X mi}./55% in favour or the thin!  
rcspumdeli

9. Itmofar as the appuaçinment is M claimants both are class-} heirs, tho I-iitaeiéi " Ac: the  
Tribunal was jusliçed in lowanis the widow and icsscrmeaam: lçç~- However, lhc a 25°x6;.ig;

and 75% in favour of the [tin] jusli□ed. 1: would be mgr of bakmw 65% in ra:«o¢£or£u«; % Tzmam-.  
,,:»...4;w;.,;, hohlug that line a "':\$.i\_ compemaliun of and appor□nud at 35% in sum or Judge