

MFA No. 100805 2018
C/w. MFA.Nos.100806/2018, 100807/2018,
100808/2018, 100809/2018

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE M.I.ARUN

AND

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

MFA NO. 100805 OF 2018 (MV-D)
C/W MFA NOS.100806/2018, 100807/2018,
100808/2018, 100809/2018 (MV)

IN MFA.NO.100805/2018:
BETWEEN:

THE DIVISIONAL MANAGER,
RELIANCE INSURANCE COM. LTD.,
CTS NO.472-474, V. A. KALABURGI SQUARE,
DESAI CROSS, DESHPANDE NAGAR, HUBBALLI,
REPRESENTED BY ITS AUTHORISED SIGNATORY.

... APPELLANT

(BY SRI. NAGARAJ C. KOLLORI, ADVOCATE)

AND:

1. SMT. DIKSHA W/O. VASUDEV KORGONKAR,
AGE:47 YEARS, OCC:HOUSEWIFE,
R/O. GOLLAULI SATTARI, GOA – 403 505.
2. SMT. NEHA D/O. VASUDEV KORGONKAR,
AGE:22 YEARS, OCC:STUDENT,
R./O. GOLLAULI, SATTARI, GOA-403 505.
3. MASTER VIRAJ S/O. VASUDEV KARGONKAR,
AGE: 18 YEARS, OCC:STUDENT,
R./O. GOLLAULI, SATTARI, GOA-403 505.
4. BABU S/O. KRISHNA KORGONKAR
AS PER ORDER DTD 01.04.2022 AMENDMENT
IS CARRIEDOUT. RESP. NO.1 TO 3



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ARE THE LRS OF THE DECEASED RESP. NO.4.
HENCE, CONSIDER THE SAME AS PER THE
ORDER DATED 26.03.2021
RESP. NO.4 IS DELETED.

5. CHANDUSAB S/O. HAZARESAB
NAVALAGUND,
AGE: MAJOR, OCC: BUSINESS,
R/O: HORAKERI ONI, ANNIGERI,
TQ:NAVALGUND, DIST:DHARWAD – 582 208.

... RESPONDENTS

[BY SRI. SANTOSH B. RAWOOT, ADV. FOR
SRI. A.A. KOKITKAR, ADV. FOR R1;
SRI. CHETAN T. LIMBIKAI & SRI. ASHOK A. DODDAMANI,
SRI. S.B. RONAND, ADV. FOR R5;
NOTICE ISSUED TO R2, R3 ARE SERVED BUT UNREPRESENTED;
R4 – DECEASED (R1 TO R3 ARE LRS OF R4)]

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR
VEHICLES ACT, 1988, PRAYING TO SET ASIDE THE JUDGMENT AND
AWARD DATED 30.01.2017 PASSED BY THE COURT OF PRINCIPAL
SENIOR CIVIL JUDGE AND C.J.M AND ADDITIONAL MACT., DHARWAD
IN MVC NO.128/2015 AND TO PASS ANY SUCH OTHER ORDERS AS
DEEMS FIT UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE,
INCLUDING THE COSTS OF THE ABOVE PROCEEDINGS, IN THE
INTEREST OF JUSTICE AND ETC.,

IN MFA.NO.100806/2018:
BETWEEN:

THE DIVISIONAL MANAGER
RELIANCE INSURANCE COMM LTD.,
CTS NO.472-474, V A KALABURGI SQUARE,
DESAI CROSS, DESHPANDE NAGAR, HUBBALLI,
REPRESENTED BY ITS AUTHORIZED
SIGNATORY.

... APPELLANT

(BY SRI. NAGARAJ C. KOLLORI, ADVOCATE)

AND:

1. MAHADEV S/O. PANDURANG GAVAS,
AGE: 66 YEARS, OCC: AGRICULTURE,
R/O: ZARME, SATTARI, GOA – 403 505.

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2. SHANKAR S/O. MAHADEV GAVAS,
AGE: 39 YEARS,
OCC: SERVICE AND AGRICULTURE,
R/O: ZARME, SATTARI, GOA - 403 505.
3. GANGA D/O. MAHADEV GAVAS,
AGE: 37 YEARS, OCC: HOUSEWIFE,
R/O: GOLAUJI, SATTARI, GOA - 403 505.
4. UMESH S/O. MAHADEV GAVAS,
AGE: 35 YEARS,
OCC: SERVICE AND AGRICULTURE,
R/O: ZARME, SATTARI, GOA - 403 505.
5. CHANDUSAB S/O. HAZARESAB NAVALAGUND
AGE: MAJOR, OCC: BUSINESS,
R/O: HORAKERI ONI, ANNIGERI,
TQ: NAVALGUND, DIST: DHARWAD - 582 208.

... RESPONDENTS

(BY SRI. SANTOSH B. RAWOOT, ADV. FOR
SRI. A.A. KOKITKAR, ADV. FOR R1 TO R4;
NOTICE ISSUED TO R4 IS SERVED BUT UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 30.01.2017 PASSED BY THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE AND C.J.M AND ADDITIONAL MACT., DHARWAD IN MVC NO.435/2015 AND TO PASS ANY SUCH OTHER ORDERS AS DEEMS FIT UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE, INCLUDING THE COSTS OF THE ABOVE PROCEEDINGS, IN THE INTEREST OF JUSTICE AND ETC.,

IN MFA.NO.100807/2018:
BETWEEN:

THE DIVISIONAL MANAGER,
RELIANCE INSURANCE COM LTD.,
CTS NO.472-474, V. A. KALABURGI SQUARE,
DESAI CROSS, DESHPANDE NAGAR,
HUBBALLI, REPRESENTED BY ITS
AUTHORISED SIGNATORY.

... APPELLANT

(BY SRI. NAGARAJ C. KOLLORI, ADVOCATE)

AND:

1. RUKMINI W/O. VITOBA GAVAS,
AGE:53 YEARS, OCC: AGRICULTURE,

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R/O: ZARME, SATTARI, GOA – 403 505.

2. CHANDUSAB S/O. HAZARESAB NAVALAGUND,
AGE: MAJOR, OCC: BUSINESS,
R/O: HORAKERI ONI, ANNIGERI,
TQ:NAVALGUND, DIST:DHARWAD – 582 208.

... RESPONDENTS

(BY SRI. SANTOSH B. RAWOOT, ADV. FOR
SRI. A.A. KOKITKAR, ADV. FOR R1;
NOTICE ISSUED TO R2 IS SERVED BUT UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 30.01.2017 PASSED BY THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE AND C.J.M AND ADDITIONAL MACT., DHARWAD IN MVC NO.436/2015 AND TO PASS ANY SUCH OTHER ORDERS AS DEEMS FIT UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE, INCLUDING THE COSTS OF THE ABOVE PROCEEDINGS, IN THE INTEREST OF JUSTICE AND ETC.,

IN MFA.NO.100808/2018:
BETWEEN:

THE DIVISIONAL MANAGER,
RELIANCE INSURANCE COM LTD.,
CTS NO.472-474, V. A. KALABURGI SQUARE,
DESAI CROSS, DESHPANDE NAGAR, HUBBALLI,
REPRESENTED BY ITS AUTHORIZED SIGNATORY.

... APPELLANT

(BY SRI. NAGARAJ C. KOLLORI, ADVOCATE)

AND:

1. UMESH S/O. MAHADEV GAVAS,
AGE: 35 YEARS, OCC: AGRICULTURE,
R/O: ZARME, SATTARI, GOA – 403 505.
2. CHANDUSAB S/O. HAZARESAB NAVALAGUND,
AGE: MAJOR, OCC: BUSINESS,
R/O: HORAKERI ONI, ANNIGERI,
TQ: NAVALGUND, DIST:DHARWAD – 582 208.

... RESPONDENTS

(BY SRI. SANTOSH B. RAWOOT, ADV. FOR
SRI. A. A. KOKITKAR, ADV. FOR R1;
NOTICE ISSUED TO R2 IS SERVED BUT UNREPRESENTED)

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THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 30.01.2017 PASSED BY THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE AND C.J.M AND ADDITIONAL MACT., DHARWAD IN MVC NO.437/2015 AND TO PASS ANY SUCH OTHER ORDERS AS DEEMS FIT UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE, INCLUDING THE COSTS OF THE ABOVE PROCEEDINGS, IN THE INTEREST OF JUSTICE AND ETC.,

IN MFA.NO.100809/2018:
BETWEEN:

THE DIVISIONAL MANAGER,
RELIANCE INSURANCE COM LTD.,
CTS NO.472-474, V. A. KALABURGI SQUARE,
DESAI CROSS, DESHPANDE NAGAR, HUBBALLI,
REPRESENTED BY ITS AUTHORIZED SIGNATORY.

... APPELLANT

(BY SRI. NAGARAJ C. KOLLORI, ADVOCATE)

AND:

- 1 . VITOBA S/O. RAMDAS GAVAS,
AGE: 55 YEARS, OCC: AGRICULTURE,
R/O: ZARME, SATTARI, GOA – 403 505.
- 2 . CHANDUSAB S/O. HAZARESAB NAVALAGUND,
AGE: MAJOR, OCC: BUSINESS,
R/O: HORAKERI ONI, ANNIGERI,
TQ: NAVALGUND, DIST: DHARWAD – 582 208.

... RESPONDENTS

[BY SRI. SANTOSH B. RAWOOT, ADV. FOR
SRI. A. A. KOKITKAR, ADV. FOR R1;
NOTICE ISSUED TO R2 IS SERVED BUT UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 30.01.2017 PASSED BY THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE AND C.J.M AND ADDITIONAL MACT., DHARWAD IN MVC NO.438/2015 AND TO PASS ANY SUCH OTHER ORDERS AS DEEMS FIT UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE, INCLUDING THE COSTS OF THE ABOVE PROCEEDINGS, IN THE INTEREST OF JUSTICE AND ETC.,

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THIS APPEAL IS COMING ON PRONOUNCEMENT AND THE SAME HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 23.02.2026, THIS DAY, **B. MURALIDHARA PAI J.**, DELIVERED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE M.I.ARUN
AND
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI)

The Insurer of Truck bearing No.KA-25-B-2095 namely Reliance Insurance Company Limited has directed these appeals against common judgment dated 30.01.2017 and corresponding awards passed in MVC Nos.128/2015 and MVC Nos.435/2015 to 438/2015 by learned Principal Senior Civil Judge and CJM & Additional MACT, Dharwad (hereinafter referred as 'the Tribunal').

2. The details of the appeals and corresponding claim petitions are as under:

Appeal No.	Claim Petition No.	Claim for
MFA No.100805/18	MVC No.128/2015	Death
MFA No.100806/18	MVC No.435/2015	Death
MFA No.100807/18	MVC No.436/2015	Injury

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MFA No.100808/18	MVC No.437/2015	Injury
MFA No.100809/18	MVC No.438/2015	Injury

3. The legal representatives of Sri Vasudev Korgaonkar (MVC No.128/2015), legal representatives of Smt. Parvati Gavas (MVC No.435/2015) and injured persons namely Smt. Rukmini, Sri Umesh and Sri Vitoba (MVC Nos.436/2015 to 438/2015) instituted these claim petitions under Section 166 of the Motor Vehicles Act, seeking compensation for the death/injuries, sustained in a road traffic accident occurred on 06.10.2013.

4. The case of the claimants is that on 06.10.2013 at about 2.00 p.m., when the above referred deceased persons and the injured were proceeding in Tata Winger bearing No.GA-04-L-4239 on Alnavar Road, near Mandihal Village, a truck bearing No.KA-25-B-2095 came from Dharwad side in wrong direction and dashed against Tata Winger. Due to the impact, Tata Winger toppled down and all the passengers therein sustained grievous injuries. It is stated that Sri Vasudev Korgaonkar and Smt. Parvati Gavas sustained fatal injuries in the incident; they later on succumbed to said injuries. In the said circumstances, the above referred claim petitions came to be filed seeking

compensation from the owner and insurer of the truck bearing No.KA-25-B-2095.

5. Upon service of notice, the owner of the truck appeared before the Tribunal in MVC No.128/2015 through his counsel but chose to remain absent in remaining four claim petitions. As such, he was placed exparte in MVC Nos.435/2015 to 438/2015. However, the insurer appeared before the Tribunal in all the claim petitions through their counsel, filed their objection and contested the petitions.

6. Based on the pleadings of the parties and the documents available on record, the Tribunal framed relevant issues in each of the claim petitions, recorded common evidence, heard the contesting parties and disposed of the claim petitions on merits of the case. The Tribunal held the driver of the truck was responsible for the accident and allowed the claim petitions in part. The Tribunal awarded compensation of ₹16,23,000/- in MVC No.128/2015, ₹7,44,948/- in MVC No.435/2015, ₹2,18,000/- in MVC No.436/2015, ₹40,000/- in MVC No.437/2015 and ₹80,000/- in MVC No.438/2015 together with interest at the rate of 8% per annum from the date of petition till realization.

7. Aggrieved by the same, the insurer has preferred these appeals, mainly challenging the impugned judgment and awards on the question of liability and the quantum of compensation. Sri Nagaraj C. Kolloori, learned Counsel for Insurer vehemently submitted that as two vehicles were involved in the accident in question, the Tribunal ought to have held the drivers of both the vehicles were equally responsible for the incident and that it committed error in attributing negligence solely to the driver of the truck. He further submitted that the driver of the truck was not holding a valid and effective driving license to drive said category of the vehicle as on the date of the accident and the tribunal committed an error in saddling the liability of satisfying the awards on them. He also submitted that the quantum of compensation awarded by the Tribunal in these appeals is excessive and on higher side.

8. Per contra, learned Counsel for the Claimants supported the findings recorded by the Tribunal and contended that the Tribunal has awarded just compensation in these claim petitions having regard to facts and circumstances of the each case and that the insurer has not made any valid ground to interfere with impugned awards.

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9. The following points arise for the consideration of this Court:

- i) Whether the Tribunal committed any error in attributing negligence solely to the driver of the truck?
- ii) Whether the compensation awarded by the Tribunal is excessive or exorbitant?
- iii) Whether the Tribunal committed any error in saddling the insurer of the truck with the liability of satisfying the award?

Point Nos.(i) to (iii) :

10. As evidence from the facts, the accident in question occurred due to involvement of two vehicles i.e, Tata Winger and the truck. The Tribunal, based on the materials available on record – such as testimony of the claimants in MVC Nos.436/2015 to 438/2015 and the police papers i.e, spot mahazar, spot sketch and the charge sheet, held that the accident in question occurred due to rash and negligent driving on the part of truck driver. In these appeals, the insurer has contended that the Tribunal ought to have held the drivers of both the vehicles were equally responsible for the accident. However, the insurer has not pointed out any basis for recording such a finding. On the other hand, the materials on record go to show that either the owner or the insurer of the truck has

adduced any evidence before the Tribunal to support their contention or to rebut the evidence adduced on the side of the claimants. In the above circumstances, this Court does not find any substance in the above contention of the insurer.

11. The Tribunal awarded compensation of ₹16,23,000/- to the claimants in MVC No.128/2015 under the following heads:

Sl.No.	Heads	Amount (in ₹)
01	Loss of Dependency	12,48,000.00
02	Loss of Consortium	1,00,000.00
03	Loss of Love & Affection	2,00,000.00
04	Loss of Estate	50,000.00
05	Transportation, etc.	25,000.00
	Total :	16,23,000.00

12. In this case, the deceased Sri Vasudev Korgaonkar was aged 49 years (Ex.P16 – Driving License & Ex.P18 – PAN Card) as on the date of accident. As such the Tribunal applied multiplier 13 as per the judgment in **Sarla Verma Vs. Delhi Transport Corporation and another**, reported in **(2009) 6 SCC 121**. The claimants herein produced relevant documents before the Tribunal to prove that the deceased was a Class V Contractor (Ex.P11), but its registration was valid only upto

3.11.2008. Similarly, they produced some RoRs to show that the deceased owned some land. However, they did not produce any document to show actual income of the deceased at the relevant point of time. As such, the Tribunal took income of the deceased notionally as ₹12,000/- per month. Further, the Tribunal taking into consideration that Claimant No.4 is a pensioner and not a dependant on the deceased, deducted 1/3rd of the notional income towards the personal expenses of the deceased and arrived at a figure – ₹12,48,000/- (i.e, ₹8,000/- X 12 X 13), which was awarded under the head of loss of dependency. The Tribunal has not considered future prospectus of the deceased as per the guidelines in **National Insurance Company Ltd., Vs. Pranay Sethi and another**, reported in **2017 (16) SCC 680**. However, the claimants have not come up with any appeal or cross objection, questioning non consideration of the said factor while determining compensation under the head of loss of dependency. As such, the compensation determined by the Tribunal under this head is retained.

13. The Tribunal awarded a total sum of ₹3,75,000/- to the claimants under the conventional heads. As per the decision

in Pranay Sethi's Case referred supra, the claimants were entitled for only a sum of ₹1,60,000/- under the head of loss of spousal, parental and filial consortium and ₹15,000/- each under the head of funeral expenses and loss of amenities. Thereby, it becomes clear that the compensation awarded by the Tribunal under the conventional heads is excessive. If the Tribunal had considered the factor of future prospects of the deceased, the claimants would have got an additional amount of ₹3,12,000/- under the head of loss of dependency. In view of the same, excess amount of ₹1,85,000/- awarded by the Tribunal under the conventional heads is ignored.

14. The Tribunal awarded compensation of ₹7,44,948/- to the claimants in MVC No.435/2015 under the following heads:

Sl.No.	Heads	Amount (in ₹)
01	Loss of Dependency	5,19,948.00
02	Loss of Love & Affection	2,00,000.00
03	Obsequies	25,000.00
	Total :	7,44,948.00

15. In this case, the deceased Smt. Parvati Gavas was aged 50 years (Ex.P21 – P.M.Report) as on the date of accident.

Hence, the Tribunal adopted multiplier 13 as per the judgment in Sarla Verma's Case referred supra. The claimants herein did not adduce any evidence before the Tribunal to prove the actual income of the deceased at the relevant point of time. In the said circumstances, the Tribunal taking into consideration services of the deceased in house-hold work and by relying on decision in **Arun Kumar Agrawal and another Vs National Insurance Company Ltd.**, reported in **(2010) 9 SCC 218**, took notional income of the deceased as ₹5,000/- per month. Further, the Tribunal deducted 1/3rd of her income towards the personal expenses on the ground that only Claimant No.1 herein was dependent on her. Thus, it arrived at ₹5,19,948/- (i.e, ₹3,333/- X 12 X 13) as the loss of dependency.

16. The Tribunal has not taken into consideration future prospectus of the deceased as per the guidelines in Pranay Sethi's Case referred supra. The claimants have not preferred any appeal or cross objection, questioning non consideration of the said factor while determining compensation under the head of loss of dependency. As such, the question of interfering with determination of the compensation under this head does not arise.

17. The Tribunal awarded a total sum of ₹2,25,000/- to the claimants under the conventional heads. As per the decision in Pranay Sethi's Case referred supra, the claimants were entitled for only a sum of ₹1,60,000/- under the head of loss of spousal and parental consortium and ₹15,000/- each under the head of funeral expenses and loss of amenities. Thereby, it becomes clear that the compensation awarded by the Tribunal under the conventional heads is excessive. If the Tribunal had considered the factor of future prospects of the deceased, the claimants would have got an additional amount of ₹1,29,987/- under the head of loss of dependency. In view of the same, excess amount of ₹35,000/- awarded by the Tribunal under the conventional heads is ignored.

18. The claim petition in MVC No.436/2015 is an injury case. As per the wound certificates (Ex.P33 and P34), the claimant sustained a fracture of the lateral tibial condyle along with simple injuries over the forehead and lower limbs. The Tribunal, duly considering the nature and severity of these injuries, the duration of her in-patient treatment, and other relevant evidence on record, awarded ₹50,000/- under the head of pain and suffering. Noting the claimant's avocation as an

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agricultural coolie, the Tribunal adopted her monthly earnings at ₹6,000/- and granted ₹18,000/- (i.e., ₹6,000/- x 3 months) towards loss of income during the laid-up period. Further, relying on the medical bills proved at Ex.P37, the Tribunal held that the claimant incurred total medical expenses of ₹1,10,000/- and awarded the said amount under that head. Additionally, the Tribunal granted ₹20,000/- each under the heads of loss of amenities and incidental expenses. Thereby, the Tribunal awarded a total sum of ₹2,18,000/- to the claimant herein. Given the gravity of the injury, the claimant's occupation, the intensive treatment undergone, and the probable healing and recovery period, the compensation awarded by the Tribunal cannot be deemed exorbitant or excessive in any manner.

19. The claim petitions in MVC Nos.437/2015 and 438/2015 are also injury cases. The Tribunal, duly considering the nature and severity of the injuries sustained by these claimants, the duration of their treatment and other relevant evidence on record, awarded global compensation of ₹40,000/- and ₹80,000/- respectively in these claim petitions. Given the facts and circumstances of each case, coupled with the materials available on record, this Court is of the considered opinion that

the compensation awarded by the Tribunal to the claimants cannot be held to be exorbitant or excessive in any manner.

20. As regards liability, the Tribunal correctly held that the offending vehicle was covered by a valid insurance policy on the date of the accident. Consequently, it fastened joint and several liability on both the owner and the insurer to satisfy the compensation awarded to the claimants, directing the insurer to make payment in the first instance across all claim petitions. It is indeed true that the insurer, in its written statement, specifically contended that the insured breached an express policy condition by permitting a person without a valid and effective driving license to drive the offending vehicle. However, the insurer adduced no evidence whatsoever before the Tribunal to substantiate this plea. Further, in any event, the claimants being third parties, the insurer remains statutorily obligated to satisfy their claims in the first instance. For the aforesaid reasons, Point Nos.(i) to (iii) are answered in the negative.

21. In the result, this Court proceeds to pass the following :

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ORDER

- i) The appeals in MFA Nos.100805/2018 to 1008809/2018 are dismissed.
- ii) The common judgment dated 30.01.2017 and corresponding awards passed in MVC Nos.128/2015 and MVC Nos.435/2015 to 438/2015 by learned Principal Senior Civil Judge and CJM & Additional MACT, Dharwad are confirmed.
- iii) The registry is directed to transmit amount in deposit in these appeals, if any, and trial court records to the Tribunal, forthwith.
- iv) Draw awards accordingly.

Sd/-
(M.I.ARUN)
JUDGE

Sd/-
(B. MURALIDHARA PAI)
JUDGE