

**MFA No. 104650 of 2022  
C/W MFA No. 104415 of 2022,  
MFA CROB No.100021 of 2025**

**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD**

**DATED THIS THE 27<sup>th</sup> FEBRUARY, 2026**

**PRESENT**

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

**AND**

**THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI**

**MFA NO. 104650 OF 2022 (MV-D)**

**C/W**

**MFA NO.104415 OF 2022 (MV-I),**

**MFA CROB NO.100021 OF 2025 (MV)**

**IN MFA NO.104650 OF 2022:**

**BETWEEN:**

THE ORIENTAL INSURANCE CO. LTD.,  
ENKAY COMPLEX, 2<sup>ND</sup> FLOOR,  
KESHAVAPUR CIRCLE, OPP. FATHIMA COLLEGE,  
HUBLI-580 022, BRANCH AT STATION ROAD,  
HOSAPETE-583 212,  
REPRESENTED BY ITS AUTHORIZED SIGNATORY.

... APPELLANT

(BY SRI G.N. RAICHUR, ADVOCATE FOR SRI S.G. RAICHUR,  
SRI A.S. DESAI, ADVOCATES ARE APPEARED THROUGH VC)

**AND:**

1. SMT. ITTAGI DAKSHAYINAMMA  
W/O. LATE ITTAGI BASAVARAJA,  
AGE: 36 YEARS, OCC. COOLIE,  
R/O. HAGARI KYADIGIHALLI VILLAGE,  
H.B. HALLI TALUK, BALLARI DISTRICT-583 212.
2. KUMARI ITTAGI SHOBHA  
D/O. LATE ITTAGI BASAVARAJA,  
AGE. 16 YEARS, OCC. STUDENT, 9<sup>TH</sup> STANDARD,  
R/O. HAGARI KYADIGIHALLI VILLAGE,  
H.B. HALLI TALUK, BALLARI DISTRICT-583 212.
3. MINOR ITTAGI KOTRESH  
S/O. LATE ITTAGI BASAVARAJA,



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AGE. 13 YEARS, OCC. STUDENT, 4<sup>TH</sup> STANDARD,  
R/O. HAGARI KYADIGIHALLI VILLAGE,  
H.B. HALLI TALUK, BALLARI DISTRICT-583 212.

RESPONDENT NO.2 AND 3 ARE MINORS  
REPRESENTED BY HIS MOTHER RESPONDENT NO.1,  
R/O. HAGARI KYADIGIHALLI VILLAGE,  
H.B. HALLI TALUK, BALLARI DISTRICT-583 212  
AS NATURAL GUARDIAN.

4. SMT. BASARAKODU DEVAKKA  
W/O. ITTAGI SHARANAPPA,  
SINCE DECEASED  
R1 TO R3 AND R5 ARE LEGAL HEIRS OF R4.
5. BASARAKODU SHARANAPPA S/O. BASAPPA,  
AGE. 67 YEARS, OCC. COOLIE,  
R/O. HAGARI KYADIGIHALLI VILLAGE  
H.B. HALLI TALUK, BALLARI DISTRICT-583 212.
6. GHOUSE BASHA S/O. NOOR AHAMAD,  
AGE. 26 YEARS, DRIVER OF LORRY BEARING  
NO. KA-22/A-6081, R/O. 23<sup>RD</sup> WARD,  
RBSSN QUARTERS, SANKLAPURA,  
HOSPET TALUKA, BALLARI DISTRICT-583 212.
7. K. MABASHA S/O. RAJASAB,  
AGE. 40 YEARS, OWNER OF LORRY BEARING  
NO. KA-22/A-6081, R/O. 23<sup>RD</sup> WARD,  
RBSSN QUARTERS, SANKLAPURA,  
HOSPET TALUKA, BALLARI DISTRICT-583 212.

... RESPONDENTS

(BY SMT. RESHMA MADIWALAR, ADVOCATE FOR R1 TO R3 & R5;  
SRI SABEEL AHMED, ADVOCATE FOR R1 AND R5;  
R2 AND R3 ARE MINORS R/BY R1;  
NOTICE ISSUED TO R6 AND R7 ARE IS SERVED BUT  
UNREPRESENTED;  
R4 DECEASED, R1, R3 AND R5 ARE LR'S OF DECEASED R4)

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THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO CALL FOR THE RECORDS AND HEAR THE PARTIES AND MODIFY THE JUDGMENT AND AWARD DATED 25.08.2022 PASSED IN MVC NO.328/2020 ON THE FILE OF THE SENIOR CIVIL JUDGE AND MOTOR ACCIDENT CLAIMS TRIBUNAL-XIII AT HAGARIBOMMANAHALLI, BY EXONERATING THE APPELLANT FROM THE LIABILITY AND REDUCING THE COMPENSATION BY ALLOWING THIS APPEAL WITH COST IN THE ENDS OF JUSTICE AND EQUITY AND ETC.

**IN MFA NO.104415 OF 2022:**  
**BETWEEN:**

THE ORIENTAL INSURANCE CO. LTD.  
ENKAY COMPLEX 2<sup>ND</sup> FLOOR KESHAVAPUR CIRCLE,  
OPP. FATHIMA COLLEGE, HUBLI-580 022,  
BRANCH AT STATION ROAD, HOSAPETE-583 212,  
REPRESENTED BY ITS AUTHORIZED SIGNATORY.

... APPELLANT

(BY SRI G.N. RAICHUR, ADVOCATE FOR  
SRI A.S. DESAI, ADVOCATE IS APPEARED THROUGH VC)

**AND:**

1. K. SHANTHAVEERANGOUDA  
S/O K. KOTRAGOUDA,  
AGE. 25 YEARS, OCC. HOME GUARD,  
R/O. KADLABALU VILLAGE,  
H.B. HALLI TALUKA,  
BALLARI DISTRICT-583 212.
2. GHOUSE BASHA S/O NOOR AHAMAD,  
AGE. 26 YEARS, DRIVER OF LORRY  
BEARING NO.KA-22/A-6081,  
R/O. 23<sup>RD</sup> WARD, RBSSN QUARTERS,  
SANKLAPURA, HOSPET TALUK,  
BALLARI DISTRICT-583 212.
3. K. MABASHA S/O RAJASAB,  
AGE. 40 YEARS, OWNER OF LORRY  
BEARING NO.KA-22/A-6081,  
R/O. 23<sup>RD</sup> WARD, RBSSN COLONY,

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KARIGANURU, HOSPET TALUKA,  
BALLARI DISTRICT-583 212.

... RESPONDENTS

(BY SMT. RESHMA MADIWALAR, ADVOCATE FOR R1;  
NOTICE TO R2 IS HELD SUFFICIENT;  
NOTICE ISSUED TO R3 IS SERVED BUT UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO CALL FOR THE RECORDS AND HEAR THE PARTIES AND MODIFY THE JUDGMENT AND AWARD DATED 25.08.2022 PASSED IN MVC NO.399/2020 ON THE FILE OF THE SENIOR CIVIL JUDGE AND MOTOR ACCIDENT CLAIMS TRIBUNAL-XIII AT HAGARIBOMMANAHALLI, BY EXONERATING THE APPELLANT FROM THE LIABILITY AND REDUCING THE COMPENSATION BY ALLOWING THIS APPEAL WITH COST IN THE ENDS OF JUSTICE AND EQUITY AND ETC.

**IN MFA CROB NO.100021 OF 2025:**  
**BETWEEN:**

1. SMT. ITTIGI DAKSHAYINAMMA  
W/O LATE ITTIGI BASAVARAJA,  
AGE: 39 YEARS, OCC: COOLIE,  
R/O: HAGARI KYADIGIHALLI VILLAGE,  
H.B. HALLI TALUK, BALLARI DISTRICT-583 212.
2. KUMARI ITTIGI SHOBHA  
D/O LATE ITTIGI BASAVARAJA,  
AGE: 19 YEARS, OCC: STUDENT,  
R/O: HAGARI KYADIGIHALLI VILLAGE,  
H.B. HALLI TALUK, BALLARI DISTRICT-583 212.
3. MINOR ITTIGI KOTRESH  
S/O LATE ITTIGI BASAVARAJA,  
AGE. 16 YEARS, OCC. STUDENT,

(SINCE CROSS OBJECTOR NO.3 IS MINOR  
R/BY HIS MOTHER SMT. ITTIGI DAKSHAYINAMMA).

4. BASARAKODU SHARANAPPA S/O BASAPPA,  
AGE. 70 YEARS, OCC. COOLIE,

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R/O. HAGARI KYADIGIHALLI VILLAGE,  
H.B. HALLI TALUK, BALLARI DISTRICT-583 212.

... CROSS OBJECTORS  
(BY SMT. RESHMA MADIWALAR, ADVOCATE)

**AND:**

1. GHOUSE BASHA S/O NOOR AHAMAD,  
AGE. 29 YEARS, DRIVER OF LORRY  
BEARING NO.KA-22-A-6081,  
R/O. 22<sup>ND</sup> WARD, RBSNN QUARTERS,  
SANKLAPURA, HOSPET TALUK,  
BALLARI-583 201.
2. K. MABASHA S/O RAJASAB,  
AGE. 43 YEARS, OWNER OF LORRY  
BEARING NO.KA-22-A-6081,  
R/O. 23<sup>RD</sup> WARD RBSNN COLONY,  
KARIGANURU, HOSPET TALUK,  
BALLARI-583 223.
3. THE ORIENTAL INS. CO. LTD.,  
ENKAY COMPLEX, 2<sup>ND</sup> FLOOR,  
KESHAVAPUR CIRCLE, OPP. FATHIMA COLLEGE,  
HUBLI BRANDH AT STATION ROAD,  
HOSAPETE-583 201.

... RESPONDENTS

(BY SRI G.N. RAICHUR, ADVOCATE FOR R3 IS APPEARED  
THROUGH VC;  
NOTICE TO R1 AND R2 IS DISPENSED WITH)

THIS MFA CROB IN MFA NO.104650/2022 IS FILED UNDER  
ORDER 41 RULE 22 OF CPC., PRAYING TO CALL FOR THE  
RECORDS, HEAR THE PARTIES AND MODIFY THE JUDGMENT  
AND AWARD DATED 25.08.2022 PASSED IN MVC NO.328/2020  
ON THE FILE OF THE SENIOR CIVIL JUDGE AND MOTOR  
ACCIDENT CLAIMS TRIBUNAL-XIII, HAGARIBOMMANAHALLI, BY  
ALLOWING THIS APPEAL WITH COST IN THE ENDS OF JUSTICE  
AND EQUITY.

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THESE APPEALS AND CROSS OBJECTION ARE COMING ON PRONOUNCEMENT AND THE SAME HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 21.02.2026, 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 Oriental Insurance Company Limited, Respondent No.3 in MVC Nos.328/2020 and 399/2020, has maintained the appeals in MFA Nos.104650/2022 and 104415/2022 challenging the judgment and award dated 25.08.2022 passed therein by learned Senior Civil Judge and MACT-XIII, Hagaribommanahalli (hereinafter referred as 'the Tribunal').

2. The claimants in MVC No.328/2020 have maintained the appeal in MFA CROB. No.100021/2025 seeking enhancement of the compensation awarded by the Tribunal.

3. The claimants' case is that on 12.08.2019 at around 9:20 a.m., the deceased Sri Ittigi Basavaraja, was returning from Koppal as a pillion rider on motorcycle No. KA-35-EE-0308, driven by Sri Shanthaveeranagouda (the claimant in MVC No.

399/2020). Near the Gunda Forest Office in Vyasanakere Village, they met with a road traffic accident owing to the rash and negligent driving of the Tipper Lorry bearing No. KA-22-A-6081. The deceased fell onto the road, and the lorry ran over his head, causing instantaneous death due to the resultant injuries. In these circumstances, the deceased's wife, children, and parents (in MVC No. 328/2020), along with the motorcycle rider (in MVC No. 399/2020), filed claims under Section 166 of the Motor Vehicles Act, 1988, seeking compensation from the lorry's driver, owner, and insurer.

4. On service of the notice, Respondent Nos.1 to 3 appeared before the Tribunal and contested the petition by filing their objections. Thereafter, the Tribunal held enquiry in the matter, wherein it held that the accident in question occurred due to actionable negligence on the part of the driver of tipper lorry and accordingly, allowed the claim petitions in part. Aggrieved by the Tribunal's award, the insurer has filed these appeals in both claim petitions. The claimants in MVC No. 328/2020 have also filed a cross-appeal seeking enhancement of the compensation granted by the Tribunal.

5. Sri. G.N. Raichur, learned Counsel for Insurer, vehemently submitted that there was sufficient material on record to show contributory negligence on the part of the rider of the motorcycle and same was not considered by the Tribunal. He submitted that the rider of the motorcycle did not possess a driving license and he was even not wearing the helmet at the time of the accident. He further submitted that the Tribunal has awarded interest on award amount at the rate of 8% p.a., which is on higher side. In the said circumstances, he prayed to allow the appeals filed by the insurer, modify the impugned judgment and award and to reduce the award amount suitably.

6. Per contra, Smt. Reshma Madiwalar, learned Counsel for Claimants vigorously supported the findings recorded by the Tribunal attributing negligence to the driver of the tipper lorry. She further contended that the compensation awarded by the Tribunal is on lower side. According to her the Tribunal erred in failing to assess the deceased's actual income and thereby denied just compensation to the claimants apart from failing to award proper compensation under the conventional heads.

7. Having heard the arguments advanced by the counsels appearing for both sides and perused the materials on record with anxious consideration, the following points arise for our determination:

- i. Whether the rider of the motorcycle contributed for the accident?
- ii. Whether the insurer has made out a valid ground to reduce the compensation awarded by the Tribunal?
- iii. Whether the claimants in MVC No.328/2020 are entitled for enhancement of compensation?

**Point No.(i) :**

8. As stated above, the case of the Claimants is that on 12.08.2019 at around 9.20 a.m., when the deceased and Sri K.Shantaveeranagouda were returning from Koppal in a motorcycle bearing No.KA-35-EE-0308, near Gunda Forest Office in Vyasanakere Village, they met with an accident due to actionable negligence on the part of driver of the tipper lorry bearing No.KA-22-A-6081 and sustained injuries and that the deceased succumbed to injuries sustained in the said incident, at the spot.

9. In support of the above contention, the rider of the motorcycle, who is also the Claimant in MVC No.399/2020,

deposed before the Tribunal as PW-2 and in support of his statements, got marked relevant police papers at Ex.P1 to P7. Undisputedly, on registration of a case in connection with the said incident, the jurisdictional police registered a case, investigated the matter and then, laid a charge sheet against the driver of the lorry on the accusation that he was responsible for the accident. The Tribunal, considering testimony of PW-2 and other materials on record held that the driver of the lorry was solely responsible for the accident.

10. The Insurer has contended that the rider of the motorcycle was also responsible and contributed for the accident. However, the respondents adduced no evidence before the Tribunal to substantiate this contention. On the other hand, the insurer has relied on the contents of revised charge-sheet filed by the jurisdictional police wherein they invoked Sections 5 read with 180 and 196 of the Motor Vehicles Act against the owner of the motorcycle in question. In **Sudhir Kumar Rana Vs Surinder Singh and others** reported in **(2008) 12 SCC 436** Hon'ble Apex Court has held that driving a vehicle without a license is an offence but the same may not lead to a finding of negligence. In view of the same and in the absence of any

positive evidence to show negligence or contributory negligence attributable to rider of the motorcycle, this Court holds that merely because the rider of the motorcycle was not holding a driving license, no negligence can be attributed against him. Accordingly, Point No.(i) is answered in the Negative.

**Point Nos.(ii) and (iii) :**

11. The Tribunal awarded a global compensation of Rs.16,000/- to the claimant in MVC No.399/2020 together with interest @ 8% per annum from the date of petition till its realization. The materials on record indicate that the claimant in MVC No.399/2020 had suffered lacerated wound over right jaw and abrasion over the face and head region. Though the said injuries were simple in nature, the Tribunal in its discretion deemed fit to award a global compensation of Rs.16,000/- to the claimant therein. In the facts and circumstances of the case, this Court does not find any valid reason to interfere with such conclusion of the Tribunal.

12. The Tribunal awarded a total compensation of Rs.19,46,516/- in favour of the claimants in MVC No.328/2020

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under the following heads, together with interest @ 8% per annum from the date of petition till its realization :

| Sl.No. | Heads                      | Amount (in Rs.)     |
|--------|----------------------------|---------------------|
| 01     | Loss of Dependency         | 18,36,516.00        |
| 02     | Loss of Love and Affection | 50,000.00           |
| 03     | Towards Funeral Expenses   | 15,000.00           |
| 04     | Loss of Estate             | 15,000.00           |
| 05     | Loss of Consortium         | 30,000.00           |
|        | <b>Total :</b>             | <b>19,46,516.00</b> |

13. A perusal of the impugned judgment discloses a glaring arithmetical discrepancy committed by the Tribunal while calculating compensation under the head of loss of dependency. Specifically, in paragraph 21 thereof, it is erroneously stated that the claimants are entitled to loss of dependency quantified as  $\text{Rs.}13,913 \times 12 \times 16 = \text{Rs.}18,36,516/-$ , and the identical figure is reproduced in the computation table at paragraph 23. However, the correct mathematical product of  $\text{Rs.}13,913 \times 12 \times 16$  yields  $\text{Rs.}26,71,296/-$ . It is thus just and proper to hold that the Tribunal intended to award a sum of  $\text{Rs.}26,71,296/-$  under the head of loss of dependency.

14. The case of the claimants is that the deceased was aged 35 years at the time of the accident and he was earning a sum of Rs.15,000/- per month from agriculture and Rs.10,000/- to Rs.15,000/- per month by doing milk vending. The Tribunal, based on age of the deceased mentioned in P.M. Report, considered him as aged 35 years at the time of accident and adopted multiplier of '16'. The Insurer has not seriously disputed correctness of the finding recorded by the Tribunal in this regard.

15. The Tribunal, by relying on the chart prepared by KSLSA for settlement of the cases before Lok-Adalath, took notional income of the deceased as Rs.13,250/- per month. Though the claimants had produced a document at Ex.P9, said to be a certificate issued by Milk Producers Committee, Hagarikyadigihalli regarding the income of the deceased, the Tribunal did not consider the said document for want of corroboration. Further, there was no other reliable evidence before the Tribunal to prove the actual income of the deceased at the relevant point of time. In the above circumstances, this Court holds that the Tribunal was justified in taking notional income of the deceased as Rs.13,250/- per month.

16. The Tribunal, relying on decision in **National Insurance Company Ltd., v. Pranay Sethi and others** reported in **(2017) 16 SCC 680**, added 40% of notional income towards the future prospects of the deceased. Thereby, the Tribunal arrived at gross income of the deceased as Rs.18,550/- (Rs.13,250 plus Rs.5,300/-) per month.

17. The deceased had left behind his wife, two children and parents as on the date of accident. The Tribunal, taking into consideration number of dependants on the deceased, deducted 1/4<sup>th</sup> of the gross income towards his personal expenses. Thereby, the Tribunal arrived at net income of the deceased as Rs.13,913/- (Rs.18,550/- minus Rs.4,637/-) and calculated loss of dependency as Rs.26,71,296/- (i.e., Rs.13,913/- x 12 x 16).

18. As per the decision in **Magma General Insurance Company Ltd., v. Nanu Ram Alias Churhu**, reported in **(2018) 18 SCC 444** it requires to compensate for loss of spousal, parental and filial consortium. Whereas, the Tribunal awarded only a sum of Rs.50,000/- under the head of loss of love and affection and Rs.30,000/- under the head of loss of consortium. In MFA Crob.100021/2025 the claimants did not

implead Claimant No.4 as a party to the appeal on the ground that she died during pendency of the claim petition. In view of the same, it is held that the claimant Nos.1 to 3 and 5 are entitled for compensation of Rs.40,000/- each under the head of spousal, parental and filial consortium in place of compensation awarded by the Tribunal under the head of loss of love and affection and loss of consortium.

19. The Tribunal awarded a sum of Rs.15,000/- each under the head of loss of estate and funeral expenses. This is in compliance with the guidelines issued in **Pranay Sethi's** Case (referred supra). Hence, it does not require any interference.

20. For the foregoing reasons, this Court holds that the claimants in MVC No.328/2020 are entitled for total compensation of Rs.28,61,296/- under the following heads:

| Sl.No. | Heads                                 | Amount (in Rs.)     |
|--------|---------------------------------------|---------------------|
| 01     | Loss of Dependency                    | 26,71,296.00        |
| 02     | Loss of Consortium<br>(Rs.40,000 X 4) | 1,60,000.00         |
| 03     | Towards Funeral Expenses              | 15,000.00           |
| 04     | Loss of Estate                        | 15,000.00           |
|        | <b>Total :</b>                        | <b>28,61,296.00</b> |

21. Learned Counsel for Insurer, relying on the decision rendered by the co-ordinate bench of this Court in **Chandrakala and another Vs Dilipkumar M.A. and another [NC:2024:KHC:24750-DB]**, vehemently submitted that the claimants are not entitled for interest on the portion of compensation awarded by taking into consideration future prospects of the deceased. In **the Oriental Insurance Co. Ltd. Vs Niru @ Niharika and Others [2025 INSC 822]** Hon'ble Apex Court, while dealing with identical issue, has held that

"... When the matter is pending before the Tribunal or in appeal before the higher forums, the claimants are deprived of the compensation for future prospects. If they are paid in time, it could be utilized by the claimants and on failure, the loss of dependency would force the claimants to source their livelihood from elsewhere. This is sought to be compensated at least minimally by award of interest, which oftener than ever is nominal also since only simple interest is awarded. ..."

and directed that the entire award amounts would be paid with interest. In view of the same, the above contention of the insurer is rejected.

22. Learned Counsel for Insurer has also contended that the Tribunal awarded interest on the award amount at a higher rate. The rate of interest is discretionary and to be fixed by the Tribunal. These claim petitions were filed in connection with an accident occurred in the year 2019. In the **Oriental Insurance Co. Ltd. Vs Niru @ Niharika and Others**, referred supra, Hon'ble Apex Court has awarded interest at the rate of 9% per annum. As such, this Court does not find any error committed by the Tribunal in awarding interest at the rate of 8% per annum.

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

**ORDER**

- i) MFA Nos.104650 of 2022 and MFA No.104415 of 2022 are dismissed.
- ii) MFA Crob. No.100021 of 2025 is allowed in part.
- iii) The judgment and award dated 25.08.2022 passed in MVC No.328/2020 by the learned

Senior Civil Judge and JMFC and XIII MACT at Hagaribommanahalli is modified.

- iv) The Claimants in MVC No.328/2020 are entitled for a total compensation of Rs.28,61,296/- together with interest thereon at the rate of 8% per annum from the date of petition till its realization.
- v) The judgment and award dated 25.08.2022 passed in MVC No.399/2020 by the learned Senior Civil Judge and JMFC and XIII MACT at Hagaribommanahalli is confirmed.
- vi) The Insurer/Respondent No.3 is directed to deposit entire compensation amount before the Tribunal (minus the amount already paid/deposited, if any) within a period of 60 days from the date of this order.
- vii) The Claimants are entitled for their share in the compensation amount at the rate/proportion and in terms of the award of the Tribunal.

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viii) The Registry is directed to transfer the amount deposited before this Court, if any, to the Tribunal along with trial court record, forthwith.

ix) Draw a modified award accordingly.

**Sd/-  
(M.I.ARUN)  
JUDGE**

**Sd/-  
(B. MURALIDHARA PAI)  
JUDGE**

VB/CKK/RKM/YAN  
CT:BCK