

(R)

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 21st DAY OF SEPTEMBER, 2007

BEFORE

THE HON'BLE MR. JUSTICE RAM MOHAN REDDY

**M.F.A. Nos. 11318, C/W 11309-11317
OF 2005 (MV)**

BETWEEN

1 UNITED INDIA INSURANCE CO LTD
VII C CHICKPET, 1 FLOOR
LAKSHMI COMPLEX, K H ROAD
FORT BANGALORE AND ALSO REGIONAL
MANAGER UNITED INDIA INSURANCE CO LTD
SHANKARNARAYANA BUILDING, M G ROAD
BANGALORE BY ITS MANAGER
... APPELLANT
COMMON

(By Sri: O MAHESH & VEENA O MAHESH, ADV.)

AND :

1 KRISHNAPPA S/O GANGAIAH
38 YRS, R/O BETTADASIPALYA
KASABA HOBLI, MAGADI
2 SYED SYED
MAJOR R/O OLD MASZID MOHALLA
MAGADI TOWN, BANGALORE
... RESPONDENTS
IN MFA 11318/05

(BY SRI. PRAKASH, ADV.)

Prakash

1. CHANNAMMA, AGED 31 YEARS
W/O BASAVARAJU
R/A BETTADASIPALYA
KASABA HOBLI,
MAGADI TALUK.

2 SYED SYEED
MAJOR R/O OLD MASZID MOHALLA
MAGADI TOWN, BANGALORE

... RESPONDENTS
IN MFA 11309/05

(BY SRI. S.P.MUDLAMANE GOWDA, ADV. FOR R1)

1. RAMACHANDRAIAH,
AGED 53 YEARS
S/O PUTTAIAH
R/A BETTADASIPALYA
KASABA HOBLI,
MAGADI TALUK.

2 SYED SYEED
MAJOR R/O OLD MASZID MOHALLA
MAGADI TOWN, BANGALORE

... RESPONDENTS
IN MFA 11310/05

(BY SRI. S.P.MUDLAMANE GOWDA, ADV. FOR R1)

1. LAKSHMAMMA, AGED 43 YEARS
W/O BYRAPPAA
R/A BETTADASIPALYA
KASABA HOBLI,



MAGADI TALUK.

- 2 SYED SYEED
MAJOR R/O OLD MASJID MOHALLA
MAGADI TOWN, BANGALORE

... RESPONDENTS
IN MFA 11311/05

(BY SRI. S.P.MUDLAMANE GOWDA, ADV. FOR R1
SRI.A.SATISH PRASAD, ADV. FOR R2)

1. SHARADAMMA, AGED 33 YEARS
W/O SHIVARUDRAPPA
R/A BETTADASIPALYA
KASABA HOBLI,
MAGADI TALUK.

- 2 SYED SYEED
MAJOR R/O OLD MASJID MOHALLA
MAGADI TOWN, BANGALORE

... RESPONDENTS
IN MFA 11312/05

(BY SRI. S.P.MUDLAMANE GOWDA, ADV. FOR R1
SRI. SATISH PRASAD, ADV. FOR R2)

1. KAMALAMMA
AGED 36 YEARS
W/O ANNIAH
R/A BETTADASIPALYA
KASABA HOBLI,
MAGADI TALUK.

- 2 SYED SYEED
MAJOR R/O OLD MASJID MOHALLA
MAGADI TOWN, BANGALORE

... RESPONDENTS
IN MFA 11313/05

(BY SRI. S.P.MUDLAMANE GOWDA, ADV. FOR R1
SRI. A.S.SATISH PRASAD, ADV.)

1. KALAMMA, AGED 43 YEARS
W/O LAKKANNA
R/A BETTADASIPALYA
KASABA HOBLI,
MAGADI TALUK.



2 SYED SYEED
MAJOR R/O OLD MASJID MOHALLA
MAGADI TOWN, BANGALORE
... RESPONDENTS
IN MFA 11314/05

(BY SRI. S.P.MUDLAMANE GOWDA, ADV. FOR R1
SRI A.SATISH PRASAD, ADV. FOR R2)

1. GANGANARASAMMA
AGED 68 YEARS
W/O RANGAIAH
R/A BETTADASIPALYA
KASABA HOBLI,
MAGADI TALUK.

2 SYED SYEED
MAJOR R/O OLD MASJID MOHALLA
MAGADI TOWN, BANGALORE
... RESPONDENTS
IN MFA 11315/05

(BY SRI. S.P.MUDLAMANE GOWDA, ADV. FOR R1
SRI A.SATISH PRASAD, ADV. FOR R2)

1. SARASWATHAMMA, AGED 25 YEARS
W/O RAMANNA
R/A BETTADASIPALYA
KASABA HOBLI,
MAGADI TALUK.

2 SYED SYEED
MAJOR R/O OLD MASJID MOHALLA
MAGADI TOWN, BANGALORE
... RESPONDENTS
IN MFA 11316/05

(BY SRI. S.P.MUDLAMANE GOWDA, ADV. FOR R1
SRI. A.SATISH PRASAD, ADV. FOR R2)

1. MANGALAMMA, AGED 31 YEARS
W/O JAGADEESHA,
R/A BETTADASIPALYA



KASABA HOBLI,
MAGADI TALUK.

2 SYED SYEED
MAJOR R/O OLD MASZID MOHALLA
MAGADI TOWN, BANGALORE


... RESPONDENTS
IN MFA 11317/05

(BY SRI. S.P.MUDLAMANE GOWDA, ADV. FOR R1
SRI A.SATISH PRASAD, ADV. FOR R2)

THESE MFAs ARE FILED U/S 173(1) OF MY ACT
AGAINST THE JUDGMENT AND AWARD DATED 16/3/05
PASSED IN MVC NO.4321, 494, 495, 496, 497, 498,
499, 500, 501 AND 502/02 ON THE FILE OF VII
ADDL.JUDGE, MEMBER, MACT-3, COURT OF SMALL
CAUSES, BANGALORE (SCCH-3), AWARDED A
COMPENSATION OF RS.20,000/- AND INTEREST OF 6%
P.A. FROM THE DATE OF PETITION TILL PAYMENT.

THESE MFAs COMING ON FOR ADMISSION THIS DAY,
THE COURT MADE THE FOLLOWING:

JUDGMENT

All these appeals filed by the insurer of
the offending motor vehicle arise out of the
common Judgment and award dated 16.3.2005 in
MVC Nos.4321/02 and 493-502/02 on the file of
the VII Addl. Judge, Court of Small Causes &
Member, MACT-3, Metropolitan Area, Bangalore
(SCCH-3), for short the 'MACT'. 

2. The MACT by the common Judgment and award partly allowed the claim petitions of the injured and determined the compensation for injuries sustained by them, in the accident involving the motor vehicle being a lorry bearing certificate of registration No.MYX 7977, driven in a rash and negligent manner. While, so doing the MACT noticed that the claimants were travelling as gratuitous passengers in a goods vehicle, nevertheless in the light of the decision in **Pramod Kumar Agarwal -v- Mushtari Begum** reported in AIR 2004 SCW 5010 fastened the liability on the appellant-insurer to pay the compensation and to recover the same from the insured-owner of the vehicle. The insurer aggrieved by the fastening of the liability has preferred this appeal.

3. Learned counsel for the appellant draws the attention of the Court to the



Judgment of the Apex Court in **National Insurance Company Ltd -v- Vedawati & others** reported in 2007 (3) SCALE 397 to contend that the Motor Vehicles Act, 1988 for short the 'Act' does not enjoin statutory liability on the owner of the motor vehicle to get his vehicle insured for any passengers travelling in a goods carriage and the insurer would have no liability therefor. According to the learned counsel, the motor vehicle in question is a goods carriage meant to carry goods and not carry passengers. The claimants having travelled in a goods carriage and sustained injuries, it is for the insured to make good the compensation and no liability could be fastened on the appellant.

4. Per contra, learned counsel for the respondent-insured points out to para 12 of the Judgment in **Pramod Kumar's** case (supra) to contend that the appellant should pay the

But

compensation and recover the same from the owner without filing a suit. According to the learned counsel, MACT was fully justified in following the decision in **Pramod Kumar's** case and fastening the initial liability on the insurer.

5. The law as regards fastening of liability on the insurer to pay compensation for injuries/death caused to passengers in a goods carriage is well settled. The Act does not provide for carrying of passengers in a goods carriage meant for carrying goods and that the owner of such a goods carriage will not be entitled to statutory indemnity against the claims by injured gratuitous passengers. The appellant cannot be held to be liable to pay compensation for the gratuitous passengers, in question. In the light of the **in Vedwati's case** [✓] subsequent decision of the Apex Court wherein Arjit Pasayat J., speaking for the Bench



observed that the provisions of the Act do not enjoin any statutory liability on a owner of a vehicle to get his vehicle insured for any passenger travelling in a goods carriage and the insurer would have no liability thereto, these appeals deserve to be allowed. The MACT was not justified in fastening the liability on the appellant.

6. In the circumstances, the appeals are partly allowed. The impugned Judgment and award of the MACT fastening initial liability on the appellant to pay the compensation and thereafter to recover the same from the respondent-owner is set-aside.

Registry is directed to refund forthwith the amount in deposit to the appellant.

**Sd/-
Judge**

Ln.