

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 16th DAY OF DECEMBER 2004

BEFORE

THE HON'BLE MR. JUSTICE AJIT J.GUNJAL

WRIT PETITION NO.48246/2004(GM-AC)

BETWEEN :

- 1 MADANNA
@ KIVUDA MADANNA
S/O CHIKKE GOWDA
AGED ABOUT 68 YEARS,
R/AT CHAKKERE VILLAGE
CHANNAPATNA TQ.,
BANGALORE RURAL DIST.,
- 2 THAYAKKA
W/O MADANNA
@ KIVUDA MADANNA
AGED ABOUT 56 YEARS,
R/AT CHAKKAERE VILLAGE,
CHANNAPATNA TQ.,
BANGALORE RURAL DIST.,
- 3 SOWBHAGYA
W/O LATE KRISHNE GOWDA
D/O MADANNA @
KIVUDA MADANNA,
AGED ABOUT 56 YEARS,
R/AT CHAKKAERE VILLAGE,
CHANNAPATNA TQ.,
BANGALORE RURAL DIST.,

...PETITIONERS

(By Smt.Srividhya G.K., Adv. for
Sri.T.N.Viswanatha, Adv.)

AND :

- 1 M/S NEW INDIA ASSURANCE
COMPANY LTD
BY ITS BRANCH MANAGER
CKM CHAMBERS,
NI.143/144, 1ST MAIN ROAD,
SESHADRIPURAM, BANGALORE 20
- 2 R V SHASHIKALA
FATHER'S NAME NOT KNOWN
TO THE PETITIONER,
MAJOR, NO.13, 5TH CROSS,
MARUTHI EXTENSION,
SRIRAMPURAM, BANGALORE. ... RESPONDENTS

(By Sri.B.C.Seetharam Rao, Adv. for R1)

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THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO QUASH THE IMPUGNED ORDER DT. 20.8.2004 PASSED IN MVC NO.551/1994 ON THE FILE OF THE DISTRICT JUDGE AND MACT, MANDYA VIDE ANNEX.C.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This writ petition is by the parents and sister of the deceased one Mahadeva, who met with a road accident on 23.01.1994.

2. A claim was lodged in MVC 551/1994 before the Motor Accident Claims Tribunal, Mandya, against the



respondents for compensation. Notwithstanding serious contest by the respondents an award was passed directing the first respondent to deposit a sum of Rs1,10,800/-. It appears the said amount was deposited. The said Judgment and Award was passed on 20.02.1979. Subsequently, it appears the said Mahadeva died on 25.5.1999. But however, an application was filed under Order 22 Rule 3 & 4 read with Section 151 of the Code of Civil Procedure, by the legal representatives of the deceased Mahadeva, to come on record. Along with the said application, a Judgment of the Apex Court in the case of *Smt.Rukhsana & others V/s. Smt.Nazrunnisa and another* was filed. But however, notwithstanding the said decision, it appears the learned member of the Tribunal has directed the parties to file a Succession Certificate.

3. In view of the decision of the Apex Court, reported in case of *Smt.Rukhsana and others V/S. Smt. Nazrunnisa and another*, it is clearly stated in para.3 that, Succession Certificate is not really required where the amount awarded is neither a debt nor a security.



4. Writ Petition is disposed of with a direction that the Tribunal shall not insist upon production of Succession Certificate.

Sd/-
Judge

SPS