

A NORTH WEST KARNATAKA RD. TRANSPORT CORP.

v.

GOURABAI AND ORS.

(Civil Appeal No. 3171 of 2009)

MAY 1, 2009

B

**[DR. ARIJIT PASAYAT AND ASOK KUMAR  
GANGULY, JJ.]**

C *Motor Vehicles Act, 1988 – S. 166 – Injuries sustained  
by deceased were not on account of any vehicular accident  
– Hence, award by MACT not sustainable – High Court erred  
in upholding the award passed by MACT.*

D CIVIL APPELLATE JURISDICTION : Civil Appeal No.  
3171 of 2009.

• From the Judgment & Order dated 27.2.2007 of the High  
Court of Karnataka at Bangalore in M.F.A. No. 2098 of 2005  
(MV).

E R.S. Hedge and P.P. Singh for the Appellants.

Mallikarjun S. Mycar and E.R. Sumathy for the  
Respondents.

F The Judgment of the Court was delivered by

**DR. ARIJIT PASAYAT, J.1.** Heard.

2. Leave granted.

G 3. Challenge in this appeal is to the order passed by the  
learned Single Judge of the Karnataka High Court dismissing  
the appeal filed by the appellant. Challenge in the said appeal  
was to an award made by the Motor Accident Claims Tribunal  
No. VII, Bijapur (in short MACT). An award of Rs.2,59,400/- was  
made. The main contention of the appellant before the MACT

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as well as before the High Court was that the deceased did not sustain any injury in any accident involving the bus of the corporation. Reference was made to the evidence of the doctor, who had admitted the deceased to the hospital, that the deceased had suffered head injury due to fall from the height of 8 to 10 feet of his own house. Though this was specifically stated in the written statement, the MACT and the High court brushed aside the same stating that there was indirect admission about the deceased having sustained injury in vehicular accident. The effect of the evidence of the doctor and exhibit R-1 does not appear to have been looked into by the MACT and the High Court. MACT did not place reliance on the document R-1 on the ground that the brother of the injured stated that he did not know what was written in the document and his signature was taken on one age. This conclusion overlooks from the fact that a doctor will not take a signature on a piece of paper mentioning something which is not correct. Exhibit R-1 establishes beyond the shadow of doubt that the injuries sustained were not on account of any vehicular accident. That being so, the MACT and the High Court were not justified in making any award. The order of the MACT and High Court stands set aside.

4. The appeal is accordingly, allowed.

B.B.B.

Appeal allowed.