



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF SEPTEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE T.G. SHIVASHANKARE GOWDA

MFA NO. 9023 OF 2017 (WC)

BETWEEN:

1. SMT. PREMA
W/O LATE GANGE Gowda
AGED ABOUT 48 YEARS

2. MOHAN KUMAR
S/O LATE GANGE Gowda
AGED ABOUT 30 YEARS

BOTH ARE R/AT G SHANKARANAHALLI
ARASIKERE TALUK, KASABA HOBLI
HASSAN DISTRICT

...APPELLANTS

(BY SRI. BHANU H.M., ADV.)

AND:

1. RAVIKUMAR A
#79, BASAPURA VILLAGE
ELECTRONIC CITY POST
BENGALURU-560 100
(OWNER OF THE CAR BEARING
REG NO.KA-51-A-8955)

2. ROYAL SUNDARAM ALLIANCE
INSURANCE COMPANY LIMITED
REGIONAL OFFICE: #152
RICHMOND ROAD
BENGALURU-560 035
(INSURER OF THE CAR BEARING
REG NO.KA-51-A-8955)

...RESPONDENTS

(BY SRI.RAVI SAMPRATI, ADV. FOR R2;
VIDE ORDER DATED 10.11.2023;
NOTICE TO R1 IS DISPENSED WITH)

Digitally signed by
PRAJWAL A

Location: HIGH COURT 2.
OF KARNATAKA



THIS MFA IS FILED UNDER SECTION 30(1) OF WORKMAN COMPENSATION ACT, AGAINST THE JUDGMENT AND AWARD DATED 04/03/2016, PASSED IN E.C.A. NO.489/2014, ON THE FILE OF THE XXI ADDITIONAL SMALL CAUSES JUDGE & XIX ACMM., MEMBER, MACT, (SCCH-23), BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE T.G. SHIVASHANKARE GOWDA

ORAL JUDGMENT

In this appeal, the petitioners are seeking enhancement of compensation.

2. For the sake of convenience, the parties shall be referred to as per their status before the Tribunal.

3. Brief facts of the case are, the son of the first petitioner and the brother of second petitioner by name, Mr.Praveen, the deceased, was working as a driver under the first respondent in a Car bearing Reg.No.KA-51/A-8955. On 21.03.2014 at 5.00 p.m. while the deceased was driving the said car along with employees of C.G.I company, it was met with an accident at Electronic City Phase-I, BETL Entry pole,



Bengaluru, due to which the inmates of the car including the deceased have sustained injuries. The deceased was treated at Blossom Hospital and St.John's Hospital, Bengaluru for 3 days, but the deceased was succumbed to the death on 23.03.2014. Claiming that he was getting a salary of Rs.15,000/- per month plus bata from the first respondent, the petitioners have approached the Commissioner under Section 22 of the Workmen's Compensation Act, 1923 ('the W.C.Act', for short). Claim was opposed by the Insurance Company. The Commissioner, after taking the evidence and hearing the both sides, by impugned judgment allowed the petition by granting compensation of Rs.9,97,920/- with interest at 12% p.a. Pleading inadequacy and seeking enhancement, the petitioners are before this Court on various grounds.

4. Heard the arguments of Shri.Bhanu H.M., learned counsel for the petitioners and Shri. Ravi S.



Samprathi, learned counsel for the Insurance Company.

5. It is the contention of learned counsel for the petitioners that, the deceased was aged 26 years, he was paid salary of Rs.15,000/-. The Commissioner instead of taking the income at Rs.15,000/- has taken it only Rs.8,000/- and he sought for enhancement of the compensation.

6. Per contra, learned counsel for the Insurance Company has contended that, though the relationship is not disputed, the Commissioner has taken the wage of the deceased at Rs.8,000/- as per Central Government Gazette Notification dated 31.05.2010. This is the outer cap for the income for an employee to claim compensation under Section 22 of the W.C.Act. The Commissioner has rightly taken the said income and under Section 4 of the Employees Compensation's Act, 1923 (for short, 'the E.C.Act') deducted 50% of monthly wages of the deceased and applied the



relevant factor of 215.28 and assessed the compensation. Apart from that, medical expenses as well as funeral expenses was also considered by the Commissioner and interest at 12% p.a. as per Statute, there is no scope for the enhancement of the compensation.

7. I have given my anxious consideration to the arguments addressed on both sides and also perused the materials on record.

8. The substantial questions of law that arise for consideration of this Court are:

(i) Whether the Commissioner was justified in determining the income of the deceased at Rs.8,000/- per month instead of Rs.15,000/- per month as claimed by the petitioners?

(ii) Whether the compensation assessed by the Commissioner is just and proper?



Point No.(i):

9. The relationship of the employee and employer is not in dispute. The accident is also not in dispute. Though the petitioners claim that the owner was paying Rs.15,000/- of salary as per Central Government Gazette Notification dated 31.05.2010, the monthly wages of worker has to be fixed at Rs.8,000/- with effect from 31.05.2010 wherein the accident took place on 21.03.2014. For those accident, which took place subsequent to 31.05.2010, the income of the employee has to be taken at Rs.8,000/- per month. The Commissioner has rightly taken the same and applied Section 4 of the E.C. Act in taking 50% of monthly wages of employee for multiplier.

10. The Post Mortem report though speaks that the deceased was 25 years old, but his Aadhar card available under Ex.P7 would indicate that the date of birth of the deceased was 18.06.1988 and the accident was on 21.03.2014. The Commissioner has considered the age of the deceased as 26 years, but if date of



birth and date of accident is taken into consideration, the deceased was completed 25 years. Hence, his age has to be taken at 25 years instead of 26 years. For the age of 25, the factor applicable is 216.91 instead of 215.28 taken by the Commissioner. Then the loss of dependency will be $216.91 \times \text{Rs.}8,000/- = \text{Rs.}8,67,648/-$.

11. The medical bills produced before the Commissioner constitute a sum of Rs.1,31,800/- and funeral expenses of Rs.5,000/-, same are considered and thereby total compensation comes to Rs.10,04,440/- instead of Rs.9,97,920/-, thereby enhancement of Rs.6,520/-. Accordingly, point No.(i) is answered.

Point No.(ii):

12. In view of the Central Government Gazette Notification, the maximum income taken for the employee is Rs.8,000/- per month. Under such circumstances, the argument of the petitioners, income at Rs.15,000/- is not persuasive and in view of finding on point No.(i), the petitioners are entitled to enhanced



compensation of Rs.6,520/-. Accordingly, point No.(ii) is answered.

13. In the light of the above discussions, the appeal merits consideration, in the result, the following:

ORDER

- i) Appeal is ***allowed in part;***
- ii) Impugned judgment and award is modified;
- iii) Petitioners would be entitled to enhanced compensation of Rs.6,520/- with interest of 12% p.a. excluding interest for the delayed period of 572 days in preferring the appeal;
- iv) The Insurance Company is directed to deposit the compensation with interest within eight weeks from the date of receipt of certified copy of the judgment.

SD/-
(T.G. SHIVASHANKARE GOWDA)
JUDGE