

**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 24TH DAY OF NOVEMBER, 2025
BEFORE
THE HON'BLE MRS JUSTICE GEETHA K.B.
MISCELLANEOUS FIRST APPEAL NO.23281 OF 2013**

BETWEEN

NATIONAL INSURANCE COMPANY LIMITED
BELLARY. REP. BY DEPUTY MANAGER,
REGIONAL OFFICE, 2ND FLOOR,
ARIHANT PLAZA,
KUSUGAL ROAD, KESHWAPUR HUBLI.

...APPELLANT

(BY SRI G.N.RAICHUR, ADVOCATE.)

AND

1. SRI D.M. INATULLA S/O. D.M. FAIZULLA
AGE: 40 YRS, OCC: EX-DRIVER
R/O. KOTTUR ROAD BYPASS,
TQ: KUDALGI.

2. SRI H.S. SHAFIULLA KHAN
S/O. H. MOHAMMED KHAN
AGE: NOT MENTIONED OCC: OWNER
OF CAR NO. KA-31/M-1983,
R/O. KSRTC BUS STAND KUDALGI
DIST: BELLARY.

...RESPONDENTS

(BY SMT. RESHMA MADIWALAR, ADVOCATE FOR
SRI T. HANUMAREDDY, ADVOCATE FOR R1;
NOTICE SERVED TO R2.)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER
SECTION 30(1) OF THE WORKMEN'S COMPENSATION ACT, 1923,
PRAYING TO CALL FOR RECORDS AND SET ASIDE THE
JUDGMENT AND AWARD DATED 27.04.2013, PASSED IN

W.C.N.F.NO.500/2007, ON FILE OF THE LABOUR OFFICER AND COMMISSIONER FOR WORKMEN'S COMPENSATION, SUB-DIVISION-2, BELLARY, BY ALLOWING THE APPEAL WITH COSTS AND PASS SUCH OTHER ORDER AS MAY BE DEEMED FIT IN THE CIRCUMSTANCES OF THE CASE IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 14.11.2025 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, DELIVERED THE FOLLOWING:

CAV JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

The insurance company has preferred this appeal under Section 30(1) of the Workmen's Compensation Act, 1923, praying for setting aside the award passed by the Labour Officer and Commissioner for Workmen's Compensation, Sub Division-II, Ballari, (in short, labour officer) in W.C.(NF) No.500/2007, dated 27.04.2013 on the points of liability and quantum of compensation.

2. Parties would be referred with their ranks, as they were before trial Court for sake of convenience and clarity.

3. The petitioner has filed the petition before the labour officer, praying for compensation in the accident that

had taken place on 27.09.2005 at 10.50 p.m. in front of the house of Vaidar Anandappa at Kudligi-Gudikote Road, in Kudligi. It is stated in the petition that he was working as driver of the car bearing registration No.KL-31/M-1893 under the employment of respondent No.1; as per the directions and order of respondent No.1, he was going in the said car as driver in front of the house of Vaidara Anandappa. At that time, a motorcycle bearing registration No.KL-35/4496, being ridden by its rider was going in front of his car; rider of said motorcycle suddenly applied brake and the appellant could not control the vehicle and dashed against the motorcycle and thereby the accident happened. On next day of the accident, the claimant has taken treatment at Government Hospital, Kudligi and also in private hospital; due to the accident, claimant has suffered dislocation of right shoulder joint and other two simple injuries and there is permanent disability to him; he cannot work as he was working earlier. Hence, prayed for allowing the petition by contending that respondent No.1 is the

owner cum his employer and respondent No.2 is the insurer of the said car.

4. After receipt of the notice of this petition, respondent No.1 appeared through his counsel and admitted his ownership over the car, petitioner was working as driver under him and further contended that it is validly insured with respondent No.2. However, he denied other averments made in the petition and hence prayed for dismissal of the petition.

5. Respondent No.2-insurer appeared through its counsel, filed its objection statement and denied all the averments made in the petition regarding the date, time and place of accident; nature of accident; age, income and profession of the petitioner; petitioner was working under first respondent and petitioner suffered injuries in the said accident. It further contended that it is not liable to pay compensation as claimed in the petition. Hence prayed for dismissal of the petition.

6. On behalf of claimant, the claimant was examined as P.W.1, examined one witness as P.W.2, got marked nine documents as Ex.P.1 to P.9 and closed his side before the labour officer. On behalf of respondents, respondent No.2 got examined its administrative officer as RW.1 and got marked two documents as Ex.R.1 and R.2 and closed its side before the labour officer.

7. Thereafter, upon hearing the arguments of both sides, the labour officer has partly allowed the petition directing respondents to pay the compensation of ₹1,05,576/- with interest at 12% p.a. to the petitioner by saddling liability upon respondent No.2. Aggrieved by the said order of the labour officer, the insurance company has preferred the present appeal.

8. Heard Sri G.N.Raichur, learned counsel for appellant insurance Company through VC and Smt.Reshma Madiwalar, on behalf of Sri T.Hanumareddy, learned counsel for respondent No.1.

9. Learned counsel for appellant insurance company would submit that insurance company had called for MLC record from the concerned hospital and the said application was dismissed by the labour officer without considering its relevancy. It was an important document to establish the contention of insurance company that there was no accident took place as alleged in the claim petition. At the time of lodging the complaint, the name of claimant and injured is not mentioned; on next day of the incident, claimant had taken treatment. Furthermore, the treated doctor is not examined to assess the disability of claimant. He would further submit that, labour officer committed an error in accepting the contention of the claimant and allowing the petition. The evidence of P.W.2 ought not to have been believed because he was not the treated doctor at the time of incident. Learned counsel for appellant would further submit that X-ray or any other document is not produced to prove that the claimant has sustained fractured injuries. Hence, prayed for allowing the appeal.

10. Learned counsel for respondent/claimant would submit that the claimant has produced all relevant materials before the labour commissioner to show that he was working as driver under respondent No.1 at the time of alleged accident, which occurred during the course of employment of the claimant. The doctor who is examined as P.W.2 has examined the claimant and then issued the disability certificate. Hence, prayed for dismissal of the appeal by confirming the order passed by the labour officer.

11. After hearing the matter, the substantial question of law that arose for consideration is as under:

“Whether there was erroneous finding of the occurrence of accident on 27.09.2005 at 10.50 p.m. at Kudligi-Gudikote Road?

12. At the time of verifying the records, one more substantial question of law that would arise for consideration is:

“Whether the compensation awarded by the labour officer is on higher side and requires interference?”

13. The finding of this Court on the above substantial questions of law are as per the final order for the following:

REASONS

14. **Substantial Question of Law No.1:** The claimant has produced relevant documents before the labour officer, i.e., FIR, complaint, charge sheet, spot panchanama, MVI report, wound certificate, disability certificate, and other documents. Even though the insurer has taken contention that the driver was not having valid and effective driving licence at the time of accident, the cross-examination of claimant by the insurer itself shows that respondent No.2 admitted the existence of driving license by putting a suggestion to him that in the driving licence, his date of birth is shown as 01.06.1972. Thus, the holding of driving licence by claimant is not in dispute. Its

copy is produced and marked as Ex.P.7. It shows that the claimant was having valid and effective driving licence to drive LMV. He was driving the car at the time of alleged accident. Hence, he was having valid and effective driving licence as on the date of the incident. His date of birth is shown as 01.06.1972 in the driving licence. Thus, as on the date of accident, his age was 32 years.

15. The wound certificate as per Ex.P.5 reveals that the claimant has sustained injury on 27.09.2005 in a road traffic accident and he was examined by the doctor on 28.09.2005 at 09.10 a.m. and doctor found that there was dislocation of right shoulder joint and found edema and scratch wound and other injuries and all the wounds were fresh in nature and might have sustained injury within 14 hours before his examination. That means, it might have been taken place in between 07.00 p.m. of 27.09.2005 and 09.10 a.m. of 28.09.2005. Thus, it substantiates the claimant's contention that the accident took place on 27.09.2005 at 10.50 p.m.

16. It is the further contention of respondent No.2 that name of claimant is not found in the complaint as injured person. Hence, the say of claimant that he sustained injuries in the road traffic accident is unbelievable one.

17. On perusal of said complaint, it reveals that this complaint was given by one K.B.Shiva Shankar. According to it, the complainant and one Nagaraju were going on their motorcycle and a car came from back side and dashed to his motorcycle and thereby caused the accident and because of that accident the complainant and another person have sustained injuries.

18. As per Section 3 of the Workman's Compensation Act, 1923, if personal injury is caused to a workman by accident arising out of and in the course of his employment, then his employer shall be liable to pay compensation in accordance with provisions of the said Chapter. Thus, the rashness or negligence on the part of the claimant is irrelevant to decide the petition of present nature. The thing to be decided in the petition of present

nature is, whether the claimant has sustained injuries during the course of his employment or not.

19. In the instant case, as admitted by respondent No.1 in his objection statement, the claimant was working as driver under respondent No.1 and during the course of his employment as driver of the car, the accident has taken place; wound certificate reveals the injuries sustained by the claimant. Hence, it is to be held that the accident had taken place during the course of employment of the claimant.

20. Considering these aspects, the Labour Commissioner has rightly come to a conclusion that the claimant has sustained employment injury. Accordingly, substantial question of law No.1 is answered in the negative.

21. **Substantial Question of Law No.2:** As far as quantum of compensation is concerned, the labour officer has rightly held that the age of claimant was 32 years as on

the date of accident. After relying on the evidence of PW.1 and PW.2, the disability of claimant was assessed at 20% by the labour officer.

22. It is to be noted here that there was dislocation of right shoulder joint to the claimant. By examining it, the doctor has given disability certificate as per Ex.P.6. Considering one grievous injury and other injuries sustained by the claimant as mentioned in the wound certificate, 20% disability to the whole body considered by the labour officer appears to be on higher side. It ought to be 12% considering the injuries, as there is one grievous injury and other injuries are simple injuries. The monthly wages considered by the Labour Commissioner at Rs.4,000/- is found to be correct and 60% of the same is to be considered for awarding compensation in injury cases. The claimant was aged 32 years old at the time of accident, for which the relevant factor is 203.85. Therefore, loss of earning capacity due to disability is hereby re-assessed as follows:

$\text{Rs.}4,000 \times 60\% \times 203.85 \times 12\% = \text{Rs.}58,708/-$.

23. Accordingly, substantial question of law No.2 is answered in the affirmative.

24. In the result, I proceed to pass the following order.

ORDER

- (i) The appeal is allowed in part.
- (ii) The impugned judgment and award of the Labour Officer and Commissioner for Workmen's Compensation, Sub Division-II, Ballari, in W.C.(N.F.) No.500/2007, is modified to an extent that the claimant is entitled to a total compensation of Rs.58,708/- as against Rs.1,05,576/- awarded by the labour officer.
- (iii) The compensation amount shall bear interest at the rate of 12% per annum from

after 30 days from the date of accident till realization.

- (iv) Respondent No.2-insurance Company shall deposit the compensation amount with accrued interest before the labour officer, within eight weeks from the date of receipt of certified copy of this judgment.
- (v) Send back the records along with a copy of this judgment and award to the Labour Officer and Commissioner for Workmen's Compensation, Sub Division-II, Ballari.
- (vi) No order as to costs.
- (vii) Draw modified award accordingly.

**Sd/-
(GEETHA K.B.)
JUDGE**