



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 9TH DAY OF JANUARY 2026

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 22200 OF 2013 (WC)

BETWEEN:

THE NATIONAL INSURANCE COMPANY LIMITED,
RAMADEV GALLI, BELGAUM,
R/BY DEPUTY MANAGER,
THE NATIONAL INSURANCE COMPANY LIMITED,
REGIONAL OFFICE, KUSUGAL ROAD, HUBLI.

...APPELLANT

(BY SRI. S.V. YAJI, ADVOCATE)

AND:

1. YALLAPPA TOLE S/O. SHIVAPPA,
AGE: 39 YEARS, OCC: COOLIE,
R/O. KANCHAKAR WADI,
TQ: RAIBAG, DIST: BELGAUM.
2. RAVI BHIMAPPA METHRI,
S/O. C. BHIMAPPA,
AGE: 33 YEARS, OCC: BUSINESS,
R/O. VIDYANAGAR, RAIBAG,
TQ: RAIBAG & DIST: BELGAUM.

...RESPONDENTS

(BY SRI. K. ANANDKUMAR, ADVOCATE FOR C/R1;
NOTICE TO R2 IS SERVED)

THIS MFA IS FILED UNDER SECTION 30(1) OF WORKMEN
COMPENSATION ACT PRAYING TO CALL FOR THE RECORDS IN
NO.WCA/SR-16/2012 ON THE FILE OF THE LABOUR OFFICER
AND COMMISSIONER FOR WORKMEN COMPENSATION, SUB-
DIVISION-I, BELGAUM DISTRICT. BELAGAUM; PRAYING TO SET
ASIDE THE JUDGMENT AND ORDER DATED 20.02.2013 PASSED

CHANDRASHEKAR
LAXMAN
KATTIMANI



Digitally signed by
CHANDRASHEKAR
LAXMAN KATTIMANI
Location: HIGH COURT
OF KARNATAKA
DHARWAD BENCH
DHARWAD



BY THE LABOUR OFFICER AND COMMISSIONER FOR WORKMEN COMPENSATION, SUB-DIVISION-I, BELGAUM DISTRICT BELGAUM IN NO.WCA/SR-16/2012 SADDLING THE LIABILITY AGAINST THIS APPELLANT AND ETC.,

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

ORAL JUDGMENT

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

This is the appeal filed by the Insurer under Section 30(1) of Workmen's Compensation Act, 1923 challenging the judgment and award passed by the Labour Officer and Commissioner for Workmen's Compensation, Sub-Division-I, Belagavi (for short, 'Commissioner') in Case No.KAPAKA/SR-16/2012 dated 20.02.2013.

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

3. The claimant has filed the claim petition before the Commissioner contending that he sustained accident while discharging his duty as employee under respondent No.1 on 24.02.2011 at about 02.30 p.m. while he was



leveling the sugarcane in the trailer attached to the tractor bearing No.KA-23/TA/6493 and No.KA-23/TA/6494. His contention is that before the accident he was working as coolie under first respondent, thus there was employer and employee relationship between first respondent and the claimant; claimant was getting income of ₹.8,000/- per month and he was aged about 30 years at the time of accident. Due to the accident, the claimant sustained fracture of left calcaneum with tendo Achilles rupture and thus sustained disability and unable to work as he was working earlier and thus prayed for compensation of ₹.10,00,000/- with 12% interest.

4. After receipt of notice of the claim petition, first respondent appeared through his counsel and filed his objection statement, wherein he admitted the relationship of employer and employee between him and the claimant and also admitted about the accident, but denied about the nature of injuries sustained by the claimant. Further he contended that his tractor-trailers are duly insured with



respondent No.2 and thus respondent No.2 is liable to pay compensation.

5. Respondent No.2 appeared through its counsel and filed its objection statement, wherein it denied all the averments made in the petition including the employer and employee relationship. Further, it contented that the tractor was duly insured with respondent No.2 as on the date of accident, but trailer was not insured and thus it is not liable to pay the compensation.

6. On behalf of claimant, claimant was examined as P.W.1 apart from examining the doctor, who treated him as P.W.2, got marked Exs.P.1 to P.6 and closed his side before the Commissioner. On behalf of respondents, respondent No.1 was examined as R.W.2 and on behalf of respondent No.2, the officer of respondent No.2 is examined as R.W.1 and got marked Exs.R.1 and R.2 and closed their side.

7. After recording evidence of sides and hearing arguments of both sides, the Commissioner has allowed the



claim petition holding that there was employer and employee relationship between respondent No.1 and claimant and claimant has suffered injury at the time of discharging his duty as employee/workman under respondent No.1 and he has suffered 25% disability and thus awarded compensation of ₹.1,24,314/- with interest at 12% per annum.

8. Aggrieved by the said judgment, the appellant/insurer has filed this appeal.

9. Heard arguments of both sides.

10. Learned counsel for appellant, Sri S.V.Yaji would submit that the injured/claimant was not employee under respondent No.1 in respect of insured vehicle; the trailer in question was not insured with respondent No.2 and thus respondent No.2 is not liable to make payment of compensation; the disability assessed by the doctor is at 25% to the left lower limb and thus the Commissioner ought to have taken the disability to whole body at 8%, but



25% taken by him is excess and thus it needs interference. Hence, prayed for allowing the appeal.

11. Learned counsel for respondent No.1, Sri K.Anandkumar would submit that there is clear employer and employee relationship between respondent No.1 and the claimant and it is in categorical terms admitted by respondent No.1 in his objection statement as well as in his oral evidence. Hence, the relationship between claimant and respondent No.1 is established. He would further submit that the trailer in question was also insured with respondent No.2 as per the insurance policy produced by respondent No.2.

12. Learned counsel for respondent No.1 would further submit that question of determination of disability is a question of fact and that cannot be entertained in the appeal. In this regard, he relied on the judgment of Hon'ble Apex Court in the case of ***Golla Rajanna vs. The***



Divisional Manager and Another reported in **2017 (1) G.L.H. 150.**

13. Having heard the arguments of both sides and upon verifying the appeal papers along with Trial Court records, the following substantial questions of law would arise for consideration:

1. Whether the appellant/insurer would establish that there is no employer and employee relationship between respondent No.1 and claimant?
2. Whether the trailer in question was not insured with respondent No.2?
3. Whether the assessment of disability to the whole body based on disability certificate issued by the doctor by the Commissioner is erroneous?

14. Answer to substantial questions of law No.1 and 2 is in the **negative** and substantial question of law No.3 is in the **affirmative** for the following:



REASONS

15. The contention of claimant is that he along with 10-12 employees had been to the lands of Vijaya Maruthi Poojery on 24.02.2011 and then they have harvested the sugarcane and at about 04.00 p.m., they have loaded the harvested sugarcane to trailers bearing No.KA-23/TA-6494, KA-23/TA-6495to attached to the tractor bearing No.KA-23/TA-6493 and they belonged to respondent No.1-Ravi Bhimappa Metri and then he was leveling the sugarcane in the trailer; at that time the sickle in his hand slipped from his hand and fell on his left ankle and caused bleeding injury to him and then he was got admitted to the hospital by respondent No.1 and then he has taken treatment as inpatient from 24.02.2011 to 10.03.2011 and he sustained compound fracture of left Calcaneum with tendo Achilles rupture and the doctor has issued disability certificate that he sustained disability of 25% to left lower limb.

16. It is the contention of the respondent No.2 that the claimant had been to the lands of Vijaya Maruthi



Poojery for harvesting the sugarcane and thus he was employed by Vijaya Maruthi Poojery and not by respondent No.1. However, it is admitted by respondent No.1 that he has hired the claimant for harvesting the sugarcane in the lands of Vijaya Maruthi Poojery because he was running Jaggery manufacturing unit and he required the sugarcane for said unit. When there is such a categorical admission from the side of respondent No.1 that he has engaged the claimant as his employee on said date for the purpose of loading and unloading and leveling the sugarcane in the trailer, insurer is debarred from contending that the claimant is employee under respondent No.1 unless he establishes fraud, misrepresentation or collusion between claimant and respondent No.1, which is not the contention of respondent No.2. Hence, rightly the Commissioner has come to the conclusion that respondent No.1 is employer and claimant is employee under respondent No.1 at the time of accident.



17. The second contention raised by the appellant/insurer is that the tractor in question was insured with the respondent No.2 and trailer in question is not insured with him. In this regard, he has produced the insurance policy as per Ex.R.4.

18. On perusal of Ex.R.4, as on the date of accident there was valid insurance policy. According to it, the tractor bearing No.KA-23/TA-6493 was insured with respondent No 2, in that first page, the value of vehicle is shown as ₹.5,15,302/- and value of trailer is shown as ₹.4,56,000/- and the total value of the insured vehicle is shown as ₹.9,71,302/- and in the second page, the trailer number is shown as KA-23/TA-6494, which is involved in the present case and it is for non-agricultural purpose and thus Ex.R.4 clearly and categorically establishes that both tractor and trailer involved in this case are insured with respondent No.2 and there was valid insurance for both tractor and trailer; including both the value of tractor and trailer the



premium was collected. Hence, this contention of insurer is also not tenable.

19. The third contention taken by the appellant/insurer is that as per the disability certificate issued by the doctor, the disability is 25% to the left lower limb and thus the Commissioner ought to have taken 1/3rd of said disability to the whole body i.e., 8% at the time of assessing the compensation.

20. Learned counsel for respondent No.1 vehemently submitted his arguments that the determination of disability is a question of fact and it cannot be gone into in the appeal. In this regard, he relied on **Golla Rajanna's** case (supra), wherein it is held as under:

"10. The Workmen's Compensation Commissioner, having regard to the evidence, had returned a finding on the nature of injury and the percentage of disability. It is purely a question of fact. There is no case for the insurance company that the finding is based on no evidence at all or that it is perverse. Under Section 4(1)(c)(ii) of the Act, the percentage of permanent disability needs to be assessed only by a qualified medical practitioner. There is no case for the respondents that the doctor who issued the disability certificate is not a qualified



medical practitioner, as defined under the Act. Thus, the Workmen's Compensation Commissioner has passed the order based on the certificate of disability issued by the doctor and which has been duly proved before the Workmen's Compensation Commissioner.

11. Under the scheme of the Act, the Workmen's Compensation Commissioner is the last authority on facts. The Parliament has thought it fit to restrict the scope of the appeal only to substantial questions of law, being a welfare legislation. Unfortunately, the High Court has missed this crucial question of limited jurisdiction and has ventured to re-appreciate the evidence and recorded its own findings on percentage of disability for which also there is no basis. The whole exercise made by the High Court is not within the competence of the High Court under Section 30 of the Act."

21. On careful perusal of the principles laid down by the Hon'ble Apex Court in the aforesaid judgment, it is clear that the determination of disability is a question of fact and cannot be gone into in the appeal.

22. In the instant case, the question of disability is not questioned by the appellant, but he is questioning only the way of considering said disability. Always, 1/3rd of disability assessed by the doctor to particular limb is to be taken to the whole body. This is a point of law and not the question of fact. But, in the instant case the Commissioner



has taken the disability of particular limb as disability to the whole body, which is incorrect. Hence, it requires interference.

23. At this stage, it is to be noted that at the time of accident i.e., in the year 2011, the income of claimant ought to have been taken at ₹.8,000 per month as per the Gazette Notification No.S.O.1258/(E), dated 31.05.201, but the Commissioner has taken it at ₹.4,500/- which is erroneous. Hence, the compensation awarded by the Commissioner is to be modified as follows:

$$₹.8,000/- \times 60\% \times 184.17 \times 8\% = ₹.70,721/-$$

24. For the above reasons, I pass the following:

ORDER

- (i) The appeal is allowed in part.
- (ii) The judgment and award passed by the Labour Officer and Commissioner for Workmen's Compensation, Sub-Division-I,



Belagavi in Case No.KAPAKA/SR-16/2012 dated 20.02.2013 is modified. The claimant is entitled to a total compensation of ₹.70,721/- as against ₹.1,24,314/- awarded by the Commissioner with interest at the rate of 12% p.a. after 30 days from the date of accident till realization.

- (iii) Respondent No.2-Insurance Company shall deposit the compensation amount with accrued interest before the Commissioner, within eight weeks from the date of receipt of certified copy of this judgment.
- (iv) Registry is directed to transfer the amount in deposit, if any, to the Commissioner. The Commissioner is directed to refund the excess amount, if any, to the appellant/Insurance Company.



- (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-I, Belagavi.
- (vi) No order as to costs.
- (vii) Draw modified award accordingly.

Sd/-
(GEETHA K.B.)
JUDGE

SH
CT-MCK
LIST NO.: 1 SL NO.: 4