

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 17TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.103214 OF 2016 (WC)

BETWEEN:

NEW INDIA ASSURANCE CO. LTD.,
BY ITS DIVISIONAL MANAGER,
1ST FLOOR, MUDALAGI BUILDING,
CLUB ROAD, BELAGAVI,
HEREIN REPRESENTED BY
NEW INDIA ASSURANCE CO. LTD.,
REGIONAL OFFICE, MOTOR THIRD PARTY
HUB OFFICE, SRINATH COMPLEX, 2ND FLOOR,
NEW COTTON MARKET, HUBBALLI-580029,
REPRESENTED BY ITS DULY CONSTITUTED ATTORNEY.

...APPELLANT

(BY SRI. R.R. MANE, ADVOCATE)

AND:

1. SHRI. ULAVAPPA GURUSIDDAPPA TIGADI,
AGE: 46 YEARS, OCC: DRIVER,
R/O: SAMPAGAON, TQ: AND DIST: BELAGAVI-591125.
2. SRI. ABDUL SALAM M. MUJAWAR,
AGE: MAJOR, OCC: BUSINESS,
R/O: CLUB ROAD, BELAGAVI-590010.

...RESPONDENTS

(NOTICE TO R1-SERVED;
NOTICE TO R2-DISPENSED WITH)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 30(1)(A)(AA) OF THE EMPLOYEES COMPENSATION ACT 1923, PRAYING TO ALLOW THIS APPEAL AND SET ASIDE THE JUDGMENT AND ORDER DATED 30.01.2016 PASSED BY THE COURT OF 1ST ADDL. SENIOR CIVIL JUDGE AND COMMISSIONER FOR WORKMENS COMPENSATION BELAGAVI IN ECA NO.431/2014 AND TO PASS SUCH OTHER ORDER OR ORDERS AS THIS HON'BLE COURT DEEMS FIT UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE, INCLUDING THE COSTS IN THE INTEREST OF JUSTICE AND EQUITY.

THIS MFA HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 05.02.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

This appeal is filed by the appellant–Insurance Company under Section 30(1)(a)(aa) of the Employees' Compensation Act, 1923, challenging the judgment and award dated 30.01.2016 passed by the Court of the I Addl. Senior Civil Judge & Commissioner for Employees' Compensation, Belagavi, in E.C.A. No.431/2014.

2. Respondent No.1 filed a claim petition before the Commissioner contending that he was working as a driver under respondent No.2 on a goods tanker bearing No.KA-22/6401 and that on 25.05.2010, while returning after loading damber on NH-17 near Ottinence Paduary village, a bus coming from the opposite direction dashed against the tanker, as a result of which he sustained injuries. It was contended that the accident arose during the course of and out of his employment and that he suffered permanent disablement. The owner of the vehicle was placed ex-parte.

The present appellant contested the claim disputing the jurial relationship, nature of injuries, extent of disability and quantum of compensation.

3. Upon appreciation of the evidence, the Commissioner held that the claimant was aged about 40 years, i.e., monthly wages could be taken at Rs.5,000/- and that he had suffered permanent partial disablement to the extent of 10% to the whole body due to the injuries sustained in the accident. Based on these findings, the Commissioner computed the compensation payable on account of loss of earning capacity at Rs.55,251/-. However, the Commissioner proceeded to hold that as per Section 4(1)(b) of the Act, the compensation payable would be 60% of the monthly wages multiplied by the relevant factor or Rs.1,40,000/- whichever is more and accordingly awarded compensation of Rs.1,40,000/- with interest at 12% per annum. Aggrieved by the said award, the Insurance Company has preferred this appeal.

4. Learned counsel for the appellant contended that the Commissioner, having categorically held that the

claimant suffered only permanent partial disablement of 10%, committed a serious error of law in applying Section 4(1)(b) of the Act, which is applicable only in cases of permanent total disablement. It was submitted that the correct provision applicable is Section 4(1)(c) and that the compensation payable is only Rs.55,251/- as assessed by the Commissioner himself. It was therefore contended that the impugned award is contrary to law and liable to be set aside.

5. Respondent No.1, though served, has remained unrepresented. Respondent No.2 was ex-parte before the Commissioner.

6. Heard the learned counsel for the appellant-Insurance Company and perused the material on record.

7. Having carefully perused the records and the impugned judgment, this Court finds that there is no dispute with regard to the age of the claimant, his monthly wages or the extent of disability. The Commissioner has recorded a clear finding that the claimant suffered permanent partial disablement of 10% to the whole body.

Section 4(1)(b) of the Employees' Compensation Act applies only when permanent total disablement results from the injury. In cases of permanent partial disablement, compensation has to be determined strictly in accordance with Section 4(1)(c), proportionate to the loss of earning capacity.

8. In the present case, after correctly calculating the compensation payable at Rs.55,251/-, the Commissioner committed a manifest error in law by applying Section 4(1)(b) and awarding the minimum compensation prescribed for permanent total disablement. Such application of law is wholly unsustainable and amounts to misinterpretation of the statutory provision. The error goes to the root of the matter and warrants interference under Section 30 of the Act.

9. Accordingly, this court proceeds to pass the following:

ORDER

- i) The appeal is allowed in part.

ii) The judgment and award dated 30.01.2016 passed in E.C.A.No.431/2014 is set aside.

iii) Claimant–respondent No.1 is entitled to compensation of Rs.55,251/- with interest at 12% per annum from one month after the date of accident till the date of deposit.

iv) The appellant–Insurance Company shall deposit the modified compensation amount, if not already deposited, within six weeks from the date of receipt of a copy of this judgment.

v) Any excess amount deposited shall be refunded to the appellant.

No order as to costs.

**Sd/-
(DR. K.MANMADHA RAO)
JUDGE**

MBS,CT:VP