



CNR: KAHC010217422023

NC: 2026:KHC:45553
MFA No. 2996 of 2023
C/W MFA No. 385 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO. 2996 OF 2023 (ECA-)

C/W

MISCELLANEOUS FIRST APPEAL NO. 385 OF 2024

IN MFA No. 2996/2023

BETWEEN:

1. SMT. BHAGYA
W/O CHINNA
AGED ABOUT 48 YEARS,
2. KUM. JAYANTHI
D/O CHINNA
AGED ABOUT 28 YEARS ,
3. KUM DIVYA
D/O CHINNA
AGED ABOUT 26 YEARS ,
4. KUM DEEPIKA
D/O CHINNA
AGED ABOUT 24 YEARS,

ALL ARE RESIDING AT NO 98,
CORPORATION COLONY ,
MURPHY ROAD, HALSUR,
BENGALURU NORTH
HAL 2ND STAGE
BENGALURU - 560 008

...APPELLANTS

(BY SRI. GURUDEV PRASAD K T., ADVOCATE)

Digitally
signed by
REKHA R
Location:
High Court of
Karnataka



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AND:

1. M/S. NATIONAL INSURANCE CO. LTD.,
D.O.NO. 01,UNITY BUILDING ANNEXE,
NO 72, 3RD FLOOR, MISSION ROAD,
BENGALURU - 560 027
BY ITS MANAGER
2. SRI.H.M. VINOD KUMAR
NO.65, BALAJI STREET,
ULSOOR, BENGALURU - 560 026.

...RESPONDENTS

(BY SRI. DEVARAJ K. S, ADVOCATE FOR R1;
SRI. RAHUL.M, ADVOCATE FOR R2)

THIS MFA FILED U/S.30(1) EMPLOYEES COMPENSATION ACT, AGAINST THE JUDGMENT AND AWARD DT.04.02.2023 PASSED IN ECA NO.82/2019 ON THE FILE OF THE VII ADDITIONAL SMALL CAUSE JUDGE AND ACMM, MEMBER, MACT-3, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA NO. 385/2024

BETWEEN:

THE DIVISIONAL MANAGER
NATIONAL INSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE, NO.01,
UNITY BUILDING ANNEX NO.72,
3RD FLOOR, MISSION ROAD,
UDUPI - 560 027

...APPELLANT

(BY SRI. DEVARAJ K. S.,ADVOCATE)

AND:

1. MRS. BHAGYA
W/O CHINNU
AGED ABOUT 48 YEARS,



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2. MS. JAYANTHI
D/O CHINNU
AGED ABOUT 26 YEARS,
3. MS. DIVYA
D/O CHINNU
AGED ABOUT 26 YEARS,
4. MS DEEPIKA
D/O CHINNU
AGED ABOUT 24 YEARS,

ALL ARE RESIDING AT NO.98,
CORPORATION COLONY, MURPHY ROAD,
HA;SUR, BANGALORE NORTH, HA; 2ND STAGE,
BENGALORE – 560 008.

5. MR. H.M.VINOD KUMAR
NO.65, BAZAR STREET,
ULSOOR, BANGALORE – 560 087

...RESPONDENTS

(BY SRI. GURUDEV PRASAD K.T, ADVOCATE FOR R1 TO
R4; SRI. RAHUL.M, ADVOCATE FOR R5)

THIS MFA FILED U/S 30(1) EMPLOYEE COMPENSATION
ACT AGAINST THE JUDGMENT AND AWARD DATED 04.02.2023
PASSED IN ECA NO. 82/2019 ON THE FILE OF THE VII
ADDITIONAL SCJ AND ACMM, MEMBER, MACT, BENGALURU,
AWARDING TOTAL COMPENSATION OF RS.10,75,175/- .THE
RESPONDENT NO.1 BEING THE INSURER ARE DIRECTED TO
DEPOSIT. RS.10,43,475/- TO THE PETITIONERS WITHIN TWO
MONTHS FROM THE DATE OF THIS ORDER. FURTHER THE
RESPONDENT NO.2 IS DIRECTED TO PAY RS.26,700/-
TOWARDS MEDICAL EXPENSES TO THE PETITIONERS.

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

CORAM: HON'BLE MR. JUSTICE T.M.NADAF



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ORAL JUDGMENT

These two appeals by claimants and Insurer assailing Judgment and Award dated 04.02.2023 in ECA.No.82/2019 passed by the VII Additional SCJ and ACMM, Member, Motor Accident Claims Tribunal-3, Bengaluru¹.

2. The Insurer is in appeal on liability to pay the compensation, excess than the amount provided under the provision of the Employee's Compensation Act cap limit of Rs.8,000/- and the claimant is in appeal seeking enhancement of compensation by considering the actual income.

3. Heard Sri.Gurudev Prasad K.T, learned counsel appearing for the claimant in both the appeals and Sri.Devraj K.S, learned counsel appearing for the Insurer in both the appeals and Sri. Rahul.M, learned counsel appearing for the employer.

¹ 'Tribunal' for short



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4. Sri.Gurudev Prasad K.T, with all vehemence submits that, the Tribunal ought to have considered the actual income of the deceased stated by the employer who has been examined as RW2, unequivocally and categorically stated before the Tribunal that, the deceased was an employee under him and he was paying him Rs.600/- per day i.e., Rs.18,000/- per month, however, the Tribunal has considered Rs.15,000/- as per the notification issued by the Central Government in terms of the provisions contained in the Employees Compensation Act, and failed to consider the actual salary stated by the employer. Learned counsel further submits that, in the teeth of evidence of the employer, the actual salary ought to have been considered and sought to allow the appeal.

5. Per contra, Sri.Devraj K.S, learned counsel appearing for the Insurer, with all vehemence submits that, in the cross-examination wife of the deceased claimant No.1 has categorically admitted that the



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deceased was working under Shanmugam who was a contractor. The property admittedly belongs to one H.M.Vinod Kumar, and since the deceased was not an employee under the said Vinod Kumar there is no jural relationship of employer and employee. He further submits that as per the provisions, the cap limit fixed as of the date of accident is Rs.8,000/-. The Tribunal acted in excess considering the notification of the year 2020 to consider the income at the rate of Rs.15,000/-, which is not amenable, when there is no specific expression in the said notification to consider the same with retrospective effect. The notification is prospective in effect and the cap fixed under the Employees Compensation Act, must have been considered while awarding compensation.

6. So far as Sri.Rahul.M, learned counsel for the employer submits that, he has given evidence in terms of the true facts which may be considered and appropriate orders may be passed.



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7. Having considered the rival submissions, this Court upon hearing finds no substantial question of law in the appeal filed by the claimant seeking for enhancement. Accordingly, the appeal is ***dismissed***. However, so far as the judgment and award of the Tribunal is concerned, considering the higher income than the one fixed with a cap, as contemplated in the provisions of the Act, the appeal filed by the Insurer is admitted to consider the substantial question of law, which reads as under:

Whether the Court below is right in considering the salary of the deceased at Rs.15,000/- per month instead of Rs.8,000/- per month, in view of the provisions contemplated under the Employees' Compensation Act?

8. So far as the argument of Sri.Devraj, learned counsel appearing for the Insurer is concerned, in view of the statement and evidence given by the employer i.e., Vinod Kumar, admitting the fact that deceased was working under him as an employee and he was paying him Rs.600/- per day as wages, nothing survives to consider



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any of the arguments and there is no substantial question of law on jurial relationship of employer and employee, and has been rightly considered by the Tribunal.

9. So far as the substantial question of law stated supra, this Court is of the opinion that the question framed required to be answered in favour of the Insurer for the simple reason that as per the cap limit fixed under the provisions contained in Section 4 of the Employees Compensation Act, which states about amount of compensation, the amount fixed under the said provision as wages on the date of accident was Rs.8000/-.

10. This Court, without any further deliberation has to consider the income fixed with cap under the provisions of the Act. Accordingly, the amount fixed at the rate of Rs.15,000/- as monthly wages by the Tribunal requires a reversal and in the place of Rs.15,000/-, Rs.8,000/- as monthly wages, is considered to award appropriate Compensation.



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11. Further this Court is of the opinion that the claimants are also entitled for a sum of Rs.5,000/- towards expenditure of the funeral expenses. In view of considering the wages at a reduced rate of Rs.8,000/-. This Court proceeds to reassess the compensation, which is as under:

12. In view of considering the wages of Rs.8,000/- p.m. i.e., 50% of the same would come to Rs.4,000/- p.m., considering the age of deceased being 54 years, the applicable factor is 139.13. If the same is multiplied with Rs.4,000/-, the compensation come to Rs.5,56,520/-. However, this Court is not interfering with the medical expenses considered by the Tribunal at the rate of Rs.26,700/-. Accordingly, claimant is entitled for reassessed compensation of **Rs.5,88,220/-** (Rs.5,56,520 + Rs.5,000 + Rs.26,700), rounded off to **Rs.5,90,000/-**, which shall carry interest as awarded by the Tribunal.



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13. In view of the policy conditions, the appellant-Insurer is exonerated from paying the interest. The Insured is directed to pay the interest on the said amount from the date of 30 days from the incident till the amount is released in favor of the claimants.

14. At this stage, Sri.Devraj, submits that entire amount ordered by the Tribunal under the Employees Compensation Act was deposited before the Tribunal and the claimants have withdrawn the entire amount.

15. The Insured is liable to indemnify the Insurer with the amount paid in excess i.e., over and above the compensation of Rs.5,90,000/-, along with interest at 6% p.a., within 6 weeks from the date of receipt of copy of this order by making digital payment to the concerned Insurance company.

16. Any failure on the part of the Insured, the Insurer is at a liberty to execute this award and recover



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the amount along with interest paid in excess of
Rs.5,90,000/-.

17. Accordingly, the appeal by the claimant in
MFA.No.2996/2023 is ***dismissed*** and appeal by the
Insured in MFA.No.385/2024 is ***allowed in part.***

Sd/-
(T.M.NADAF)
JUDGE

PK
List No.: 1 Sl No.: 27