



NC: 2026:KHC:49706
MFA No. 7650 of 2018

CNR: KAHC010169642018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO. 7650 OF 2018 (WC)

BETWEEN:

1. SMT.JAYAMMA
W/O LATE M. RENU,
AGED ABOUT 46 YEARS,
2. SMT.PARIMALA
D/O LATE M.RENU,
AGED ABOUT 26 YEARS,
3. SMT.ROOPA
D/O LATE M.RENU,
AGED ABOUT 24 YEARS,

ALL ARE HOUSEHOLD WORK,
HOLEBENAVALLI VILLAGE,
SHIVAMOGGA TALUK
AND DISTRICT-577 202.

...APPELLANTS

(BY SRI RAJARAMA SOORYAMBAIL, ADVOCATE)

AND:

1. SRI RAGHUPATHI R
S/O LATE M.RENU,
AGED ABOUT 31 YEARS
R/O 7TH CROSS,
HOLEBENAVALLI VILLAGE,
SHIVAMOGGA TALUK AND
DISTRICT-577 202.
2. THE DIVISIONAL MANAGER
NEW INDIA ASSURANCE CO. LTD.,
1ST FLOOR, MALLAPPA COMPLEX,

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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B H ROAD, SHIVAMOGGA
PIN - 577 202.

...RESPONDENTS

(BY SRI MANU D GOWDA, ADVOCATE AND
SRI D.NAGARAJ, ADVOCATE FOR R1;
SRI B.R.VENKATESH KAMATH, ADV. FOR R2)

THIS MFA IS FILED U/S 30(1) OF ECA ACT, 1923 AGAINST THE JUDGMENT AND ORDER DATED 04.07.2018 PASSED IN EC NO.2/2015 ON THE FILE OF THE I ADDITIONAL SENIOR CIVIL JUDGE, CJM, AMACT-7, E.C.C. SHIVAMOGGA, DISMISSING THE CLAIM PETITION FOR COMPENSATION.

THIS APPEAL IS COMING ON FOR *DISMISSAL*, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 04.07.2018 passed by I Additional Senior Civil Judge & Employees Compensation Commissioner, Shivamogga, in ECA no.2/2015, this appeal is filed.

2. Sri Rajaram Sooryambail, learned counsel for appellant submitted that appellants were claimants in claim petition filed under Employees' Compensation Act, 1923 (formerly the Workmen's Compensation Act) (**ECA**). It was submitted that claimants were legal representatives of M. Renu.



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It was stated that on 12.06.2014, M. Renu working as driver in Lorry no.KA-14-5720 owned by respondent no.1 and was driving Lorry from Thirthanali to Heddur village. Due to rain, he lost control over vehicle and it met with accident after running into road side ditch. In accident, he sustained grievous injuries and despite treatment at JC Hospital, Thirthahalli, Narayana Hrudayalaya, Shivamogga and Wenlock Hospital, Mangaluru, he did not recover and died on 17.06.2014. Alleging loss of dependency, claim application under ECA was filed against employer and insurer.

3. On service of notice, owner appeared and admitted relationship of employer and employee. But denied liability to pay compensation on ground that vehicle was insured and sought indemnity. Insurer filed objections mainly denying relationship of employer and employee among other ground.

Based on pleadings, Commissioner framed following issues:

"1. Whether the petitioners prove that the deceased M. Renu, was an employee as driver to the lorry owned by the 1st respondent and he was working as such as on the date of accident?"

2. Whether the petitioners prove that the said M.Renu died in the hospital due to the injuries sustained by him as the lorry toppled down into a drainage during



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the course of such employment under the 1st respondent?

3. Whether the petitioners are entitled for compensation as prayed? If so, how much and with what rate of interest and from whom payable?

4. What order or award?"

4. To substantiate their case, claimant no.1 examined herself as PW.1 and cleaner of Lorry as PW.2 and got marked Exhibits P1 to P16. In rebuttal, official of insurer was examined as RW.1 and got marked Exhibits R1 to R4.

5. On consideration, Commissioner answered issues no.1 to 3 in negative and issue no.4 by dismissing claim petition. Aggrieved, this appeal was filed.

6. It was submitted, only reason assigned by Commissioner for rejection of claim petition was that deceased M.Renu was son of owner of Lorry and there was no relationship of employer and employee, contrary to material on record namely, description of deceased as driver in police investigation records, respondent no.1 admitting relationship of employer-employee and deposition of cleaner of vehicle as RW.2.



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7. Relying on decisions of this Court in ***Manohar Bhimappa More v. Mahadev Bhimappa More & Ors.*** [MFA no.1541/2001 (DD.28.03.2005)], ***Oriental Insurance Co.Ltd. v. Ramesh & Anr.*** [2014:KHC:5428]), ***Divisional Manager v. Smt.Pramilabai & Ors.*** [2016:KHC-K:1343]) and decision of Jharkhand High Court in ***ICICI Lombard General Insurance Company v. Smt.Umravali Devi & Ors.*** reported in **2014 (3) TAC 181**, it was submitted that there was no prohibition in law about against employment of relatives. It was submitted, this Court in MFA no.1541/2001 had held that there would be no need for proof of relationship between parent and child as employer and employee and sought for answering substantial question of law framed in favour of appellant and to allow appeal by awarding just compensation.

8. On other hand, Sri Manu D Gowda, learned counsel appearing for Sri D Nagaraj, advocate for respondent no.1 supported appellants.

9. Sri BR Venkatesh Kamath, learned counsel for respondent no.2 opposed appeal. It was submitted that there was no material produced to establish employment of deceased



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as driver. On appreciation of entire material on record, Commissioner had arrived at conclusion about failure to establish relationship of employer and employee and on said finding of fact, dismissed claim application. Therefore, no substantial question of law would arise for consideration. It was further submitted, Hon'ble Supreme Court in case of ***Shantabhai Ananda Jagtap & Anr. v. Jayram Ganapati Jagtap & Anr.*** reported in ***2023 ACJ 1601***, under similar circumstances dismissed claim petition by holding failure to establish relationship of employer and employee between brothers. Same would apply to present case also and sought for dismissal.

10. Heard learned counsel and perused judgment, award and record.

11. This appeal was admitted on 08.02.2021 on following substantial question of law:

"Whether the Tribunal was justified in dismissing the claim petition on the ground that the claimants have failed to establish the employer and employee relationship between the deceased and owner of the vehicle in the facts and circumstances of the case?"



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12. It is settled law that in case of claim petition under ECA, applicants would require to establish occurrence of accident in course of employment and out of employment, apart from age, monthly salary of deceased and loss of dependency. Indisputably, deceased herein was none other than father of employer. While passing impugned award, on reference to deposition of PW.1-mother of respondent no.1 and PW.2 stated to be cleaner in Lorry as well as documentary evidence, arrived at conclusion that there was no proof of employment.

13. Though learned counsel for appellant fervently sought to draw attention of this Court to deposition of PWs.1 and 2 to contend that there was no prohibition of relatives being employed, in light of decisions relied, merely by proving blood relationship, relationship of employer and employee cannot be held proved. In instant case, first reference to incident in question is complaint given to police. It is given by respondent no.1 and marked as Ex.P3. On careful perusal of Ex.P3, it is seen that there is reference to deceased as 'driver of Lorry' and not as employee of complainant. There is also no



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reference to presence of any other person in vehicle at time of accident. Therefore, deposition of PW.2 about deceased being employed as 'driver' would not suffice. Moreover, PW.2 has described himself as 'conductor', which post in Goods vehicle would be non-existent. On consideration of entire material, Commissioner has arrived at conclusion and conclusion on a question of fact and same would not constitute substantial question of law.

14. No case of perversity in findings established. Hence, holding that substantial question of law does not arise for consideration. Appeal is ***dismissed***.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

AV

List No.: 1 Sl No.: 11