



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.4205 OF 2020 (ECA)

C/W

MFA CROSS OBJECTION NO. 24 OF 2022

IN MFA No. 4205/2020

BETWEEN:

THE ORIENTAL INSURANCE CO. LTD.,
P.B.NO.41, NETHRAVATHI COMPLEX,
OPPOSITE PRIVATE BUS STAND,
MADIKERE
NOW REP BY ITS REGIONAL MANAGER,
THE ORIENTAL INSURANCE CO. LTD.,
REGIONAL OFFICE, NO.44/45
LEO SHOPPING COMPLEX,
RESIDENCY ROAD, BANGALORE-25

...APPELLANT

(BY SRI. HARINI SHIVANANDA, ADVOCATE)

AND:

1. SHRI. MOHAMMED SAMEER
S/O ABUBAKAR, 40 YEARS,
R/O GUNDURAO BADAVANE,
SHANIVARASANTHE,
SOMWARPET TALUK,
KODAGU DISTRICT.



2. SHRI.ABDUL KHADER
MAJOR,
S/O ABUBAKAR,
R/O SHRIRANGALA VILLAGE, HANDLI POST,
SHANIVARASANTHE, SOMWARPET TALUK,
KODAGU DISTRICT.
3. SRI.S.D.DINESHA
MAJOR,
S/O DEVARAJU, SULUGALALE COLONY,
CHINNAHALLI ROAD, SHANIVARASANTHE
SHANIVARASANTHE HOBLI,
SOMWARPET TALUK, KODAGU DISTRICT.

...RESPONDENTS

(BY SRI.PRASANNA V.R. ADVOCATE FOR R-1;
NOTICE TO R-1 AND R-2 IS D/W)

THIS MFA IS FILED U/S 30(1) OF EMPLOYEES'
COMPENSATION ACT, AGAINST THE JUDGMENT AND AWARD
DATED 13.12.2019 PASSED IN ECA.NO.1/2018 ON THE FILE
OF THE SENIOR CIVIL JUDGE, SOMAWARAPETE.

IN MFA.CROB NO. 24/2022

BETWEEN:

SRI. MOHAMMED SAMEER,
AGED ABOUT 42 YEARS,
S/O ABUBUKAR,
R/AT : GUNDURAO BADAVANE,
SHANIVARASANTHE HOBLI,
SOMAWARPETE TALUK,
KODAGU DISTRICT-571 235.

...CROSS OBJECTOR

(BY SRI. PRASANNA V.R., ADVOCATE)



AND:

1. SRI. ABDUL KHADER,
AGE : MAJOR,
S/O. ABUBAKAR,
R/AT : SHRIRANGALA VILLAGE,
HANDIL POST,
SHANIVARASANTHE HOBLI,
SOMWARPETE TALUK,
KODAGU DISTRICT-571 235.
2. THE ORIENTAL INSURANCE CO. LTD.,
BRANCH OFFICE MADIKERI,
P.B.NO.41,
NETHRAVATHI COMPLEX,
PRIVATE BUS-STAND OPPOSITE,
MADIKERI,
KODAGU DISTRICT-571 201.
3. SRI. S.D. DINESHA,
AGE : MAJOR,
S/O : DEVARAJU
R/AT : SULUGULALE COLONY,
CHINNAHALLI ROAD,
SHANIVARASANTHE,
SHANIVARASANTHE HOBLI,
SOMWARPETE TALUK,
KODAGU DISTRICT-571 235.

...RESPONDENTS

(BY SMT. HARINI SHIVANANDA, ADVOCATE FOR R-2)

THIS MFA CROB IS FILED U/S 30(1) OF EMPLOYEES' COMPENSATION ACT, AGAINST THE JUDGMENT AND AWARD DATED 13.12.2019 PASSED IN ECA.NO.1/2018 ON THE FILE OF THE SENIOR CIVIL JUDGE, SOMAWARAPETE.



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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

These two appeals arising out of the judgment and award passed in ECA No.1/2018 dated 13.12.2019 by the Senior Civil Judge, Somawarpete, (hereinafter referred to as 'the Commissioner'), whereby the Commissioner partly allowed the claim petition filed by the claimant and awarded a compensation of Rs.3,16,066/- with 6% interest.

2. The factual matrix of the case is that the claimant, who is the cross-objector in MFA Crob No.24/2022, was employed as a cleaner in the lorry bearing registration No. KA-12-9663, owned by respondent No.1, Abdul Khader. On 14.03.2018, at about 4.30 p.m., while discharging his duties by loading timber into the said lorry at Beetikatti on Hirikar Road, near the coffee plantation of one Venkatesh, respondent No.3, the driver of the lorry, suddenly moved the vehicle. As a result, a wooden block placed behind the rear tyre of the lorry slipped and fell on the claimant, causing a fracture to his right leg. He



was initially shifted to the Government Hospital at Shanivarasanthe, for first aid and was thereafter referred to Mangaluru for further treatment. Subsequently, an FIR came to be registered against the driver of the said lorry. Thereafter, the claimant instituted a claim petition under the Employees' Compensation Act, registered as ECA No.1/2018, before the Commissioner, seeking compensation from the owner and the Insurance Company.

3. Upon appreciation of the oral and documentary evidence, the Commissioner partly allowed the claim petition and awarded compensation as stated *supra*. Aggrieved by the said judgment and award, the Insurance Company preferred MFA No.4205/2020, while the claimant filed cross-objection in MFA Crob No.24/2022 seeking enhancement of compensation.

4. Heard the learned counsel appearing for both the parties in both the appeals.

5. Apart from urging several contentions, the learned counsel for the Insurance Company primarily contended that the Commissioner grossly erred in awarding compensation



under the Motor Vehicles Act instead of the Employees' Compensation Act. Accordingly, she prays to allow the appeal.

6. *Per contra*, the learned counsel appearing for the cross-objector/claimant in MFA Crob No.24/2022 contended that the Commissioner erred in determining compensation under the Motor Vehicles Act without taking into consideration the relevant provisions of the Employees' Compensation Act. He further submitted that the Commissioner wrongly assessed the claimant's daily wages at Rs.240/-, despite cogent evidence on record establishing that he was employed as a cleaner and was earning Rs.500/- per day. It was further contended that, since the compensation has been determined by applying the provisions of the Motor Vehicles Act, the matter requires reconsideration by the Commissioner in accordance with the Employees' Compensation Act. Accordingly, he prayed for allowing the cross-objection or, in the alternative, remanding the matter to the Commissioner for fresh consideration.

7. I have given my anxious consideration on the submission made by the learned counsel for both the parties and also perused the materials available on record.



8. As could be gathered from the records, the claim petition was admittedly filed under the Employees' Compensation Act. However, while passing the impugned order, the Commissioner erroneously invoked the provisions of the Motor Vehicles Act and awarded compensation thereunder. For determination of compensation under the Employees' Compensation Act, the Commissioner is required to consider the relevant factors prescribed under the said Act. This fundamental error vitiates the impugned judgment and award and necessitates reconsideration by the Commissioner on the basis of the evidence already available on record and, if required, after affording an opportunity to both parties to adduce additional evidence. Accordingly, in my considered opinion, the matter deserves to be remitted to the Commissioner for fresh consideration in accordance with law. Hence, I pass the following:

ORDER

- i. Both the appeals are ***disposed off***.
- ii The impugned judgment and award passed in ECA No.1/2018 by the Commissioner is set aside.



- iii. The matter is remitted back to the Commissioner with a direction to dispose the matter at the earliest, within an outer limit of four months.
- iv. It is made clear that parties shall not take unnecessary adjournments before the Commissioner.
- v. Both the parties are at liberty to lead any further evidence if any.
- vi. The Commissioner also can frame any additional issues if any, to decide the case.
- vii Parties shall appear before the Commissioner on 10.08.2026.

SD/-
(RAJESH RAI K)
JUDGE