

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO. 2790 OF 2021 (ECA)

BETWEEN:

SRI SAMYANAIK
S/O SRI TOGYANAIK
AGED ABOUT 59 YEARS
R/O DASARAHALLI THANDA VILLAGE
DASARAHALLI POST, HADAGALI TALUK
BELLARY DISTRICT – 583 101.

...APPELLANT

(BY SRI SIDDESH M., ADVOCATE FOR
SRI VINOD GOWDA, ADVOCATE)

AND:

1. SRI I.M. NAGESHGOWDA AND BROTHERS
PROPRIETOR, HASIRUKADU ESTATE
G. HOSAHALLI, GONIBEEDU HOBLI
MUDIGERE TALUK
CHIKMAGALURU – 577 101.

2. THE MANAGER
NATIONAL INSURANCE COMPANY LTD.
YASHORAM CHAMBER, R.G. ROAD
CHIKMAGALUR DISTRICT – 577 101.

...RESPONDENTS

(BY SRI MANJULA N. TEJASWI, ADVOCATE FOR R2;
R1 IS SERVED)

THIS MFA IS FILED U/S 30(1) OF THE EMPLOYEES
COMPENSATION ACT, AGAINST THE JUDGMENT AND AWARD
DATED 05.03.2021, PASSED IN E.C.A.NO.9/2018, ON THE FILE
OF THE SENIOR CIVIL JUDGE AND JMFC., MUDIGERE,
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 19.09.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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

CAV JUDGMENT

The present appeal is filed by the claimant under section 30(1) of the Employees Compensation Act,1923 ('the EC Act' for short) seeking to modify the judgment and award dated 05.03.2021 passed in ECA No.9/2018 on the file of the Senior Civil Judge & JMFC at Mudigere ('the Commissioner' for short).

2. The appellant/respondents herein are the claimant/respondents before the Commissioner.

3. The brief facts of the case are that:

The petitioner/claimant was working as a workman under respondent No.1-employer and, on 17.09.2018 at about 10.00 a.m., while carrying out work in the estate as instructed by respondent No.1, a tree tingle accidentally fell on his left lower limb, resulting in fracture of the medial malleolus, fracture of the fibula (left lower one-

third) and other grievous injuries. Immediately after the accident, he was shifted to Holly Cross Hospital, Chikkamagaluru, where he underwent treatment and was inpatient from 17.09.2018 to 28.09.2018 and underwent surgery. Thereafter, he continued treatment as an outpatient for more than one month and is stated to have incurred medical and other expenses exceeding Rs.2,00,000/-.

4. It is the case of the claimant that the accident arose out of and in the course of his employment under respondent No.1. According to him, on account of the injuries sustained to his left leg and lower limb, he is unable to perform any work and has suffered permanent disability affecting his earning capacity and livelihood. It is further asserted that he was aged about 55 years at the time of the accident and was earning wages of Rs.400/- per day. The claimant also states that respondent No.1 had initially admitted him to the hospital and borne the expenses towards his treatment.

5. Upon service of notice, respondent No.1 remained absent and was placed *ex parte*. Respondent No.2-insurer entered appearance and filed its statement of objections denying the material averments of the petition and calling upon the claimant to strictly prove the occurrence of the accident, employer-employee relationship, age, wages and injuries. It is contended that respondent No.2-insurer had issued E.C.Policy No.604901411710000191 in favour of M. Nageshgowda and Brothers for the period from 05.01.2018 to 04.01.2019 and that its liability, if any, is subject to the terms and conditions of the policy. Respondent No.2 further contends that insurer is not liable to pay interest and penalty and that medical expenses are restricted to Rs.25,000/- per employee under the policy, and accordingly sought dismissal of the petition.

6. In order to substantiate the case of the claimant, he got examined himself as PW1 and examined Dr.K.Hebbar as PW2 and got marked Ex.P.1 to Ex.P.23 document. On the other hand respondents have not led

any evidence but got marked insurance policy as Ex.R.1 with consent.

7. Based on the pleadings and the material available on record, the Commissioner, by the impugned judgment and award, allowed the claim petition and awarded compensation of Rs.47,358/- with interest at the rate of 12% per annum from the date of accident till realization. The respondents were held jointly and severally liable.

8. The learned counsel appearing for the appellant would contend that despite the doctor having assessed the permanent disability at 15% under Ex.P18 and deposing that the appellant would be unable to continue his avocation as a coolie, the Commissioner erroneously assessed the disability at 5% and failed to properly consider the resultant loss of earning capacity. It is further contended that the appellant was a skilled worker earning Rs.500/- per day and that the income taken for computation is on the lower side.

9. Heard learned counsel appearing for the appellant as well as the learned counsel for the respondents.

10. Having considered the contentions advanced and upon perusal of the material available on record, it is not in dispute that the claimant sustained injuries in an accident arising out of and in the course of his employment under respondent No.1. The Commissioner, on appreciation of the oral and documentary evidence, assessed the loss of earning capacity at 5% and awarded compensation accordingly. The appellant has not made out any ground warranting interference with the said assessment. Likewise, the findings recorded by the Commissioner with regard to the occurrence of the accident and the employer-employee relationship do not call for interference. However, insofar as the determination of monthly wages is concerned, the Commissioner has not taken into consideration the statutory wage ceiling prescribed under the notification issued under the EC Act.

11. The accident having occurred on 17.09.2018, the monthly wages for the purpose of computation are required to be taken at Rs.8,000/- in terms of the Notification No.S.O.1258 (E), dated 31.05.2010. Therefore, while retaining the relevant factor adopted by the Commissioner and the loss of earning capacity assessed at 5%, the compensation requires to be recomputed by taking the monthly wages at Rs.8,000/-. Therefore, the loss of earning is reassessed as under:-

$$\text{Rs.8000/-} \times 60\% \times 5\% \times 99.37 = \text{Rs.23,848.8/-}$$

rounded off to Rs.23,850/-.

12. To that extent, the claimant is entitled for enhancement of compensation. Save and except the aforesaid modification in the monthly wages taken for computation, the remaining heads of compensation awarded by the Commissioner do not warrant interference.

13. In view of the above, the total compensation would be Rs.23,850/- + Rs.74,483/- (medical expenses) = Rs.98,333/-. Further it is pertinent to note that on perusal

of Ex.R1-insurance policy, the same was valid at the time of accident and is covered for medical expenditure for a person upto Rs.25,000/-. Thus the claimant is entitled to recover Rs.25,000/- towards the medical expenses. Further, the claimant in his claim petition stated that the respondent No.1 paid treatment amount. Hence, the claimant is entitled for Rs.23,850/- + Rs.25,000/- = **Rs.48,850/-** with interest at the rate of 12% per annum.

14. Insofar as the award of interest is concerned, the Insurance Company-respondent No.2 is not liable to pay interest amount under the provisions of the EC Act. The claimant shall be entitled to interest at the rate of 12% per annum on the compensation amount and the liability to pay such interest shall be borne by respondent No.1-employer.

15. In the result, this Court proceeds to pass the following:-

ORDER

(i) The appeal is ***allowed in part.***

(ii) The judgment and award dated 05.03.2021 passed in ECA No.9/2018 by the Senior Civil Judge & JMFC and Commissioner for Employees' Compensation, Mudigere, is modified.

(iii) The appellant is entitled to a total compensation of **Rs.48,850/-** as against Rs.47,358/- awarded by the Commissioner.

(iv) The appellant shall be entitled to interest at the rate of 12% per annum on the compensation amount.

(v) Respondent No.1-employer shall be liable to pay the interest amount. Respondent No.2-insurer shall indemnify respondent No.1 only in respect of the compensation amount as re-determined herein and shall not be liable to pay interest.

(vi) In all other respects, the judgment and award passed by the Commissioner shall remain unaltered.

(vii) The amount in deposit, if any, along with records shall be transmitted to the Commissioner forthwith.

(viii) Draw modified award accordingly.

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

BNV