



CNR: KAHC010283912021

NC: 2026:KHC:41612
MFA No. 3455 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO. 3455 OF 2021 (ECA)

BETWEEN:

SRI VENKATESH V
S/O VENKATAPPA
AGED ABOUT 41 YEARS
R/AT BEHIND MOTHER THERESA SCHOOL
ELENAHALLI BEGUR
BANGALORE - 560 068

...APPELLANT

(BY SRI. A.S GIRISH, ADVOCATE)

AND:

SRI. M SURESH
S/O SRI. MUNIYAPPA
AGED ABOUT 60 YEARS
R/AT NO 785, VIJAYA BANK LAYOUT
11TH CROSS, BILEKAHALLI
BANNERAGHATTA ROAD
BANGALORE - 560 076

...RESPONDENT

(BY SMT. SUGUNA R REDDY, ADVOCATE)

THIS MFA IS FILED U/S.30(1) OF THE EMPLOYEES
COMPENSATION ACT, AGAINST THE JUDGMENT AND AWARD
DT.24.03.2021, PASSED IN ECA NO.145/2018, ON THE FILE OF
THE VII ADDITIONAL JUDGE AND ACMM, COURT OF SMALL
CAUSES, MEMBER, MACT-3, BENGLAURU, PARTLY ALLOWING

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



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THE CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

This appeal is directed against the judgment passed in
ECA No.145/2018 dated 24.03.2021 by VII Addl. Judge and
A.C.M.M., Court of Small Causes, Member, MACT-3, Bengaluru
(for short, 'the Commissioner'), whereby the Commissioner
partly allowed the claim petition filed by the appellant-claimant
under Section 22 of the Employees' Compensation Act, 1923,
and awarded compensation of Rs.3,66,440/- with interest at
the rate of 12% per annum from the date of accident i.e., on
08.07.2017 till its realization.

2. The brief facts of the case are, Sri Venkatesh-
claimant was working as a carpenter under respondent No.1.
On 08.07.2017 when he was doing his carpenter work to fix the
glass sheet in the second floor of the building of respondent at
Vijaya Bank layout without any safety measures as per the
instruction of the respondent, he fell down from the second



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floor and became unconscious. Thereafter, immediately he was shifted to Fortis Hospital and he was taken treatment in the said Hospital for a period of 8 days. Subsequently, the wife of the claimant lodged a complaint before the Mico Layout Police Station as per Ex.P2. On the strength of Ex.P2, the said Police registered the case in Crime No.416/2017 against the respondent and further the said Police laid charge sheet against the respondent as per Ex.P10. Later, the claimant filed the claim petition before the Tribunal in ECA No.145/2018, claiming compensation for the injuries he sustained during the course of employment.

3. In order to prove the claim before the Commissioner, the claimant himself examined as PW.1 and also examined one witness as PW.2-Doctor, who treated him and marked 21 documents at Exs.P1 to P21. However, the respondent also examined himself as RW.1 and examined one more witness as RW.2-Doctor so also marked one document as Ex.R1.

4. Upon assessment of oral and documentary evidence, the commissioner partly allowed the claim petition



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filed under Section 122 of Employees' Compensation Act and awarded compensation as stated supra. The said judgment is challenged by the claimant in this appeal.

5. Heard learned counsel for the respective parties.

6. Apart from urging several contentions, learned counsel for the appellant-claimant primarily contended that the Tribunal has grossly erred while assessing disability of the claimant at 40%, despite the Doctor-PW.2 in his evidence stated that the claimant sustained 100% functional disability. According to him, the claimant, being the carpenter was unable to continue the said work due to spinal cord injury. By placing reliance on evidence of Doctor-RW.2 who was examined by the respondent, he submits that both the Doctors have specifically deposed that the claimant cannot continue his carpentry work due to implantation in the spinal cord. In such circumstances, he submits that the Commissioner ought to have considered 100% disability to the claimant.

7. He also contented that the Commissioner is not justified in considering monthly wages of the claimant at



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Rs.8,000/- by considering the Notification dated 31.05.2010 under Section 4(1B) of the Minimum Wages Act. He further contended that in view of the judgment of the Division Bench of this Court in MFA No.6905/2018 dated 10.11.2021, the income can be taken beyond the cap fixed in the Notification dated 31.05.2010. He also contended that the claimant was carpenter and was earning an income of Rs.1,200/- per day, despite the Commissioner has considered only Rs.8,000/- wages per month as per Notification dated 31.05.2010. Accordingly, he prays to allow the appeal.

8. *Per contra*, learned counsel for the respondent by supporting the impugned judgment contended that the Commissioner, upon meticulous examination of entire evidence on record, passed a reasoned judgment, which does not call for any interference at the hands of this Court. According to her, PW.2-Doctor, who treated the claimant has not stated that the claimant has sustained 100% disability and he specifically admitted in his cross-examination that the claimant is able to do other work except carpentry work. In such circumstances, the Commissioner is justified in considering the disability at



40%. She further contended that there is no specific evidence in respect of loss of earning capacity of the claimant, as such, the Commissioner is justified in taking 40% disability so also Rs.8,000/- income as per Notification dated 31.05.2010. In order to buttress her arguments, she relied on the judgment of the Full Bench of this Court in **SHIVALINGA SHIVANAGOWDA PATIL & OTHERS V. ERAPPA BASAPPA BHAVIHALA & OTHERS - ILR 2004 KAR 193** and the judgment of Hon'ble Apex Court in **GOLLA RAJANNA ETC. ETC. V. THE DIVISIONAL MANAGER AND ANOTHER - AIR 2016 SCC 5382**. She also contended that since the claimant has not raised any grounds in his appeal memo or substantial question of law in respect of wages determined by the Commissioner, this Court cannot grant or consider the enhanced wages/income of the claimant on the higher rate. Accordingly, she prays to dismiss the appeal.

9. I have given my anxious consideration to the submission made by learned counsel for the respective parties and perused the impugned judgment and award so also the other documents made available before this Court.



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10. As could be gathered from records, in the instant case, there is no dispute in respect of employer and employee relationship. Further, it is also not in dispute that the incident was caused to the claimant during the course of employment. As such, the only question for consideration is quantum of compensation awarded by the Commissioner. On careful scrutiny of the evidence available on record, it is not in dispute that the claimant sustained injuries during the course of carpentry work in the house of the respondent. The said aspect of the matter is not seriously disputed by the respondent in his evidence. Thus, it is clear that the claimant is a carpenter by avocation. In his evidence he has stated that he was earning Rs.1,200/- as a daily wage through his carpentry work.

11. Be that as it may, on perusal of evidence of PW.2- Doctor who treated the claimant coupled with the evidence of Ex.P9-wound certificate, the claimant has sustained traumatic D12 wedge compression fracture with cord compression. Further, the discharge summary issued by the Fortis Hospital reveals that there is a history of loss of consciousness for few minutes. He regained consciousness and was able to move his



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limbs. He complains of severe back pain since then. The Doctor-PW.2 has stated that there is a healed scar over the back with mild gibbus and severe tenderness seen, the claimant has restriction of spine movements and grade 4/5 in both lower limbs and the claimant falls in the Vth category, hence he has disability of 40% and he cannot do his carpenter profession as before, hence his disability is at 100% functionally as his spinal column is not stable. Though the said Doctor has cross-examined by the respondent, nothing worthwhile has been elicited from him to disbelieve his testimony.

12. Nevertheless, the respondent examined RW.2-Dr. Sreedhar, who was the team member of Doctors who conducted the surgery to the claimant. On scrutiny of his evidence, it is clear that the claimant has sustained the fracture of D12 and there is a fixation in the spinal, fixation, extension and rotation in the spinal cord movements. The said Doctor has specifically stated that the metal is hard and there will be no movement. He also stated that the claimant cannot bend fully. Admittedly, the claimant is carpenter by avocation, the



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movement of spinal cord is restricted and he cannot bend fully to do his carpentry work. In such circumstance, I am of the considered view that though there is 100% disability in respect of carpentry work of the claimant. Even assuming that the claimant can do some work as stated by PW.2 and RW.2, it could be easily presumed that he sustained minimum 60% functional disability due to the spinal cord injury. Accordingly, the disability assessed/taken by the Commissioner is required to be reassessed at 60% instead of 40% since the disability of the claimant directly affects his earning capacity.

13. As far as the income is concerned, the Commissioner has taken wages at Rs.8,000/- per month as per Notification dated 31.05.2010. However, the accident has caused in the year 2017 i.e., 7 years from the date of Notification. In the year 2020, a subsequent Notification was issued by modifying the wages at Rs.15,000/- per month. The Division Bench of this Court in MFA No.6905/2018 by placing reliance on the judgment of the Hon'ble Apex Court in the case of **JAYA BISWAL AND OTHERS VS. BRANCH MANAGER, IFFCO TOKIO GENERAL INSURANCE COMPANY LIMITED**



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AND ANOTHER – AIR 2016 SC 956 has held that, which is also a case in relation to an accident which occurred on 19.07.2011 i.e., after the Amending Act 45 of 2009 was enacted, the Apex Court in paragraph 25 of the said judgment had actually determined the monthly wages of the deceased therein at `10,000/- and calculated the compensation by construing the monthly wages at `10,000/-, thereby leading to the inference that there was no capping of the monthly income of the employee at `8,000/-.

14. Collocating the facts of this case to the findings of the Division Bench of this Court in the above case, it is clear that though a ground has not urged in the appeal memo in respect of wages, this Court by taking judicial note, can enhance the wages awarded by the Commissioner, since the capping of the monthly wages of the employee cannot be restricted as per the Notification. Accordingly, the claimant was doing carpentry work and according to him he was earning a wages of Rs.1,200 per day, however, he has not placed any documents to that effect. Hence, I am of the considered view that minimum wages could be re-assessed at Rs.15,000/- per



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month and in view of the injury and disability sustained, 60% of the income of the claimant has to be taken into consideration by applying the relevant factor of 186.90. Accordingly, the claimant is entitled for compensation of towards '*loss of income*' is **Rs.10,09,260/-** (Rs.9,000 X 60% X 186.90) as against the sum of Rs.3,58,850/- with 12% interest one month after the date of the accident till the date of deposit.

15. Accordingly, the appeal is ***allowed in part.***

16. The respondent-employer is directed to deposit the compensation amount within six weeks before the Commissioner from the date of receipt of the certified copy of this judgment. Upon such deposit the Commissioner is directed to release the same to the claimant with due identification.

SD/-
(RAJESH RAI K)
JUDGE

HKV
List No.: 1 Sl No.: 8