



NC: 2026:KHC:51301
MFA No. 6656 of 2013

CNR: KAHC010348672013

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO. 6656 OF 2013 (WC)

BETWEEN:

THE DIVISIONAL MANAGER
M/S. THE ORIENTAL INS. CO. LTD.
OPP. TO FIRE BRIGADE
SARASWATHIPURAM,
MYSORE.

NOW REPRESENTED BY
M/s. THE ORIENTAL INS. CO. LTD.,
REGIONAL OFFICE NO.44/45,
LEO SHOPPING COMPLEX
TP HUB, RESIDENCY ROAD CROSS
BANGALORE - 560 025
REP. BY ITS REGIONAL MANAGER.

...APPELLANT

(BY SRI SURESH K., ADVOCATE)

AND:

1. SMT. MALLIGAMMA
W/O SRI MAHADEVAPPA
S/O SRI MUDDAMALLAPPA
CHOULTRY STREET
HULLAHALLI
NANJANAGUDI TALUK - 571 314.
2. SRI K.C. KRISHNAMURTHY
S/O SRI K.C. CHINNASWAMY
DRIVER OF BUS
NO.KA 09 6464
YADIYALA,
HULLAHALLI HOBLI

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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NANJANGUDU TALUK - 571 314.

3. SRI MAHESH
S/O SRI ANKAIAH
CONDUCTOR OF
BUS NO.KA 09 6464
HAMPAPURA
H.D. KOTE TALUK - 571 125.
4. SRI H.S. HEMANTH KUMAR
S/O SRI K.R. SHAMANNA
OWNER OF CHAMUNDI BUS
HOUSE NO.77,
2ND MAIN ROAD
RAMAKRISHNANAGARA,
MYSORE - 571 511

...RESPONDENTS

(BY SRI SUHAS GOWDA M., ADVOCATE FOR
SRI MUNIYAPPA, ADVOCATE FOR R1;
SRI C.V.KUMAR, ADVOCATE FOR R4;
R3 - NOTICE SERVED AND UNREPRESENTED;
V/C/O DATED 22.02.2018 -
APPEAL AGAINST R2 IS ABATED)

THIS MFA IS FILED U/S 30(1) OF W.C. ACT AGAINST THE
JUDGMENT DATED 30.03.2013 PASSED IN WCA/FC/CR-40/2007 ON
THE FILE OF THE LABOUR OFFICER AND COMMISSIONER FOR
WORKMEN COMPENSATION, MYSORE DISTRICT, MYSORE,
AWARDING COMPENSATION OF Rs.4,15,960/- WITH INTEREST @
12% FROM AFTER ONE MONTH OF ACCIDENT TILL DEPOSIT.

THIS APPEAL IS COMING ON FOR FINAL HEARING, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI



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ORAL JUDGMENT

Challenging judgment and award dated 30.03.2013 passed by Commissioner for Workmen's Compensation, Mysuru (**Commissioner**) in ECA no.40/2007, this appeal is filed.

2. Sri K. Suresh, learned counsel for appellant submitted that appeal was by insurer challenging award on three substantial questions of law as framed by this Court on 31.01.2026 while admitting appeal. Firstly, whether applicant claiming to be adoptive mother of deceased could be dependent of deceased; secondly, whether accident occurred in course of employment; and thirdly, on quantum of compensation.

3. It was submitted, in application filed, respondent-applicant stated that Mooga @ Basavaraju (**victim**) was her brother and after death of their parents, victim was residing with her and she had adopted him. He was working as a cleaner in Chamundi Bus belonging to respondent no.3 and on 24.02.2006, when as per instructions of employer, he was changing tyre and tube of punctured wheel of Bus near workshop, tyre burst causing injuries to his head and face. Despite treatment at Hospital at HD Kote as well as JSS



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Hospital, Mysuru, he succumbed to injuries. Alleging that deceased was earning Rs.2,500/- per month and applicant had lost dependency, application was filed seeking compensation under Sections 10 and 22 of Workmen's Compensation Act, 1923 (**Act**) against employer and insurer.

4. It was submitted, despite service of summons, driver/conductor and owner of Bus did not appear and were placed *ex parte*. Only insurer appeared and opposed application. Age, occupation, income, employment as well as dependency were denied and application was also opposed on quantum.

5. Based on pleadings, Commissioner framed following issues:

"ವಾದಾಂಶಗಳು:

1. ಮೃತನು ನೇ ಪ್ರತಿವಾದಿಗಳಲ್ಲಿ ಕ್ಲೇನರ್ ಆಗಿ ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿದ್ದನೆಂಬುದನ್ನು ಅರ್ಜಿದಾರರು ಸಾಬೀತು ಪಡಿಸುವವರೇ?
2. ಅರ್ಜಿದಾರರು, ಮೃತನು ದಿನಾಂಕ: 24.02.2006 ರಂದು ತನ್ನ ಕರ್ತವ್ಯದಿಂದ ಮತ್ತು ಕರ್ತವ್ಯನಿರತನಾಗಿದ್ದಾಗ ಅಪಘಾತಕ್ಕೀಡಾಗಿ ಮೃತಪಟ್ಟಿರುತ್ತಾನೆಂದು ಸಾಬೀತುಪಡಿಸುವವರೇ?
3. ಅರ್ಜಿದಾರರು, ಮೃತನು ಪ್ರತಿವಾದಿಗಳ ಬಳಿ ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಗ ಮಾಸಿಕ ಎಷ್ಟು ವೇತನ ನೀಡುತ್ತಿದ್ದರೆಂದು ಹಾಗೂ ಎಷ್ಟು ವಯಸ್ಸಾಗಿದ್ದರೆಂದು ಸಾಬೀತುಪಡಿಸುವವರೇ?
4. ಅರ್ಜಿದಾರರು ತಾವು ಮೃತನ ತಾಯಿತಂದೆಯೆಂದು ಎಲ್ಲರೂ ಮೃತನ ಅವಲಂಬಿತರೆಂದು, ಕಾರ್ಮಿಕ ನಷ್ಟ ಪರಿಹಾರ ಕಾಯ್ದೆಯನ್ವಯ ಅವಲಂಬಿತರು ಎಂಬ ಪದದ ಅರ್ಥ, ವಾಖ್ಯಾನದಡಿಯಲ್ಲಿ ಬರುತ್ತಾರೆಂದು ಸಾಬೀತುಪಡಿಸುವವರೇ?



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5. ಪರಿಹಾರ ಮತ್ತು ಬಡ್ತಿ ಹಾಗೂ ದಂಡದ ಮೊತ್ತವನ್ನು ಪಾವತಿಸುವಲ್ಲಿ ಯಾವ ಪ್ರತಿವಾದಿಗಳು ಜವಾಬ್ದಾರರು ಮತ್ತು ಎಷ್ಟು?
6. ಇದರ ಬಗ್ಗೆ ಆದೇಶವೇನು?"

6. Thereafter, applicant examined herself and two others and got marked Exs.P1 to P8. Insurer did not lead any evidence.

7. On consideration, Commissioner answered issues no.1 and 2 in affirmative, issues no.3 and 4 in favour of applicant and issues no.5 and 6 by determining monthly income of deceased as Rs.4,000/-, his age as 30 years and applying factor of 207.98, assessed total compensation of Rs.4,15,960/- and held insurer liable to pay same with interest at 12% p.a. from one month after date of incident. Aggrieved thereby, present appeal was filed.

8. It was submitted that even as per assertion of claimant in her application, she was adoptive mother of deceased and without producing any records to substantiate adoption, applicant would not answer definition of 'dependent' for purpose of claim under Act. It was further submitted, there was no material produced to substantiate employment of deceased by insured. Even fact that deceased was changing



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tyre near workshop would indicate that deceased was an employee of workshop and not of insured. In such case, claim would not be tenable.

9. It was further submitted, when claimant had stated monthly income of deceased was Rs.2,500/-, assessment by Commissioner taking monthly income of deceased at Rs.4,000/- would be without any basis. On said grounds, prayed for answering said substantial question of law also against claimant and for allowing appeal.

10. Sri Suhas Gowda M., learned counsel appearing for Sri Muniyappa, advocate for respondent no.1-claimant opposed appeal. Likewise Sri CV Kumar, learned counsel for respondent no.4 also opposed appeal.

11. They submitted that based on material and record, Commissioner had arrived at finding of fact and no substantial question of law arose for consideration. In absence of substantial question of law, appeal under Section 30 of Act would not be tenable and sought for dismissal.

12. It was submitted, to substantiate relationship, claimant-applicant had stated that deceased was her brother



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and after death of their parents, he was residing with her and she had adopted him. It was submitted, even if there was no material to substantiate adoption, fact that she was sister of deceased was substantiated in deposition of applicant as well as from PWs.2 and 3 and Ex.P8 - Genealogical tree.

13. Heard learned counsel, perused impugned judgment and award and record.

14. In this insurer's appeal, three substantial questions of law were framed by this Court.

i) Whether the Commissioner was justified in holding that the claimant was a dependant of the deceased and that the claimant had adopted the deceased?

ii) Whether the Commissioner was justified in holding that the accident occurred during the course of employment?

iii) Whether the quantum of compensation awarded by the Commissioner is contrary to the material on record?

15. Insofar as first substantial question of law, in her pleadings as well as in deposition, applicant clearly stated that she was sister of deceased and after death of their parents, when he was three months old, he was taken care of by applicant and he was residing with her. Besides her deposition,



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PWs.2 and 3 from same village, corroborated her claim as sister of deceased as well as about deceased residing with her.

16. While passing impugned award, Commissioner has taken note of said fact and based on said material, arrived at finding of fact that claimant was dependent and would be entitled for compensation. Since there is some material to substantiate finding, it cannot be said to be perverse or without any basis or contrary to material on record. Besides, finding would be question of fact and therefore, substantial question of law would not arise for consideration.

17. Though next substantial question of law is that there was no record to substantiate employment and for drawing adverse inference about deceased attempting to change tyre and tube near workshop, deposition of claimant is very clear that deceased was employed as cleaner by owner of Bus and nothing material is elicited either in cross-examination of PW.1 or other witnesses.

18. On quantum, it is indeed seen that claimant had stated that when deceased was being paid Rs.2,500/- per



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month as salary. But it is also stated that same was in addition to providing food and daily *bhata*.

19. Under above circumstances, consideration of monthly income of deceased at Rs.4,000/- and assessment of compensation on said basis cannot be stated to be excessive or contrary to law, calling for interference. Hence, even substantial questions of law no.2 and 3 framed would not arise for consideration.

20. In view of above, since none of substantial questions of law framed, would arise for consideration, appeal is devoid of merit and ***dismissed*** as such.

Amount in deposit, if any, before this Court is ordered to be transmitted to jurisdictional Court for payment.

Sd/-
(RAVI V HOSMANI)
JUDGE

AV
List No.: 1 Sl No.: 31