



CNR: KAHC010678372024

NC: 2026:KHC:51114
MFA No. 7802 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 7802 OF 2024 (ECA)

BETWEEN:

1. THE ORIENTAL INSURANCE CO. LTD.,
REGIONAL OFFICE, TP.HUB,
44/45, LEO SHOPPING COMPLEX,
RESIDENCY ROAD, BANGALORE-560025

...APPELLANT

(BY SMT. HARINI SHIVANANDA.,ADVOCATE)

AND:

1. SRI. NAGARAJU B R
AGED ABOUT 33 YEARS.
S/O RAMAPPA,
R/A BANDEBOMMASANDRA,
BENGALURU DODDAGUBBI
BENGALURU EAST TALUK, BENGALURU-562149
2. M/S MVC TRANSPORT AND
FACILITY SERVICES, ICES NO. 27,
MARUTHI LAYOUT, BENGALURU-560036
K.R.PURAM POST,
MARAGONDANAHALLI.
3. M/S. S.V.T. TRAVELS
NO. 28, SHIVAKRUPA NILAYA,
MARUTHI LAYOUT,
MARAGONDANAHALLI.T.C.PALYA,

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K.R.PURAM POST,
BENGALURU-560036

...RESPONDENTS

(BY SRI. BASAVARAJU P.,ADVOCATE FOR R1;
R2 & R3 SERVED)

THIS MFA IS FILED U/S 30(1) EMPLOYEE COMPENSATION ACT AGAINST THE JUDGMENT AND AWARD DATED 12.09.2024 PASSED IN ECA NO. 56/2021 ON THE FILE OF THE III ADDITIONAL JUDGE, COURT OF SMALL CAUSES, MEMBER, MACT, BENGALURU SCCH-18, AWARDING COMPENSATION OF RS.2,39,550/- WITH INTEREST AT 12 PERCENT P.A. FROM THE DATE OF ACCIDENT TILL REALIZATION.

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

CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL JUDGMENT

1. This is the appeal filed under Section 30(1) of the Employees' Compensation Act, 1923 (in short 'the Act') by respondent No.2 - Insurance Company challenging the saddling liability on it in ECA No.56/2021 dated 12.09.2024 on the file of III Additional Judge and Motor Accident Claims Tribunal,

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Court of Small Causes, Bengaluru (SCCH-18) (in short, 'the Commissioner').

2. Parties would be referred with their ranks, as they were before the Commissioner for the sake of convenience and clarity.
3. The appeal under Section 30 of Employees' Compensation Act is maintainable only if any of the ingredients of Section 30(1) (a) to (e) would attract giving rise to substantial question of law.
4. Section 30(1) Employees' Compensation Act, 1923 reads as follows:

"30. Appeals.—(1) *An appeal shall lie to the High Court from the following orders of a Commissioner, namely:—*

(a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;

¹[(aa) an order awarding interest or penalty under section 4A;]

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(b) an order refusing to allow redemption of a half-monthly payment;

(c) an order providing for the distribution of compensation among the dependants of a deceased ²[employee], or disallowing any claim of a person alleging himself to be such dependant;

(d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 12; or

(e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal, and in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than ³[ten thousand rupees or such higher amount as the Central Government may, by notification in the Official Gazette, specify]:

Provided further that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the

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order of the Commissioner gives effect to an agreement come to by the parties:

⁴[Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.]”

5. The appellant in this appeal challenges the relationship of employer and employee between the claimant and respondent No.1 contending that it was not established before the Commissioner and thus, respondent No.2 is not liable to pay the compensation and contended that there arises substantial question of law.
6. The factum of establishment or non-establishment of relationship between the claimant and respondent No.1 i.e., employee and employer relationship is only a question of fact and not a question of law. Only if the finding of the Commissioner is *perverse* and against the established norms and principles of law,

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then only the appeal is maintainable and that too when substantial question of law was not answered by the Commissioner in accordance with law.

7. The learned counsel Smt. Harini Shivananda would submit that, in the evidence, RW1 has specifically stated that the claimant is not employed under him and that evidence is not at all considered by the Commissioner and thus, the finding of the Commissioner on this point is *perverse* and the substantial question of law would arise and appeal deserves to be allowed.
8. Learned counsel for respondent No.1 Sri Basavaraju P would submit that only after considering the entire evidence of RW1, who is representing both respondent Nos.1 and 3 before the Commissioner, the Commissioner rightly came to the conclusion that the offending vehicle in question was standing in the name of RW1 and in connected MVC case, RW1 has

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given evidence that the present claimant is only the car driver under him and this factum is admitted by RW1 in his cross-examination. Considering this evidence, rightly the Commissioner came to the conclusion that the claimant has established employee and employer relationship between him and respondent No.1. Hence, there is no perversity in the finding of the Commissioner and it requires no interference and no substantial question of law would arise.

9. With this background the facts of the present case are to be analyzed.
10. Heard arguments of both sides and perused appeal papers and Trial Court records.
11. It is the specific contention of the claimant before the Commissioner that, he was working as employee under respondent No.1 as driver of offending car bearing Reg.No.KA-53/A-A0967 and was holding a

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valid and effective Driving License; on 25.03.2021 at about 23.50 hours, as per the directions of respondent No.1, the claimant during the course of his employment was driving the offending car, which met with an accident on NH-75 road when it reached near Madras NH-75 bypass road, Mulbagal town, Kolar District, and it came in contact with bus bearing Reg.No.NL-01/B-1914 and due to the accident, he sustained grievous injuries with permanent disability. Hence, claimed compensation under different heads.

12. After considering the objections of the respondents, after framing issues and evidence put forth by both parties, the Commissioner came to the conclusion that the claimant has established employee and employer relationship between him and respondent No.1 and thereby, awarded the compensation of Rs.2,39,550/- with interest @ 12% p.a.

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13. The same is under challenge in this appeal by respondent No.2 - Insurance Company on the ground that employee and employer relationship is not established.
14. Before analyzing the facts, it is material to examine the principles of law enunciated in the judgment of the Hon'ble Apex Court in ***Fulmati Dharmdev Yadav Vs. New India Assurance Company Ltd.,¹*** and wherein at paragraph No.21 reads as follows:

"21. The other ground making the order under challenge, amenable to interference when the scope of jurisdiction is circumscribed by it being exercised only in cases of "substantial question of law", is perversity in the findings. Here, the impugned Judgment does not, even remotely, reflect the observation that the findings arrived at by the Commissioner are perverse. The difference, between the two Judgments, i.e., the order of the Commissioner and the judgment in First Appeal, was on the point of the employer- employee relationship

¹ Civil Appeal No.4713 of 2023(Arising out of SLP(C) Np.17963 of 2019



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having been established. The Commissioner held such relationship to have been established however, the appeal Court observed that "claimants have clearly failed to prove this aspect".

15. This Court also places reliance on the judgment of the Hon'ble Apex Court in the case of ***Golla Rajanna and Others vs. Divisional Manager, United India Insurance Company Limited and Another***² wherein at paragraph Nos.9 and 10 reads as follows:

" 9. The Workmen's Compensation Commissioner, having regard to the evidence, had returned a finding on the nature of injury and the percentage of disability. It is purely a question of fact. There is no case for the insurance company that the finding is based on no evidence at all or that it is perverse.

10. Under the scheme of the Act, the Workmen's Compensation Commissioner is the last authority on facts. Parliament has thought it fit to restrict the scope of the appeal only to substantial questions of law, being a welfare legislation."

16. Thus, the relationship between employee and employer is a question of fact and not a substantial

² AIR 2016 SC 5382



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question of law. However, if the finding of the Commissioner on this point is *perverse* and not at all based on evidence, then this Court can interfere with said judgment in the appeal.

17. In this regard this Court places reliance on the judgment of the Hon'ble Apex Court in case of ***Shakuntala Chandrakant Shreshti v/s Prabhakar Maruti Garvali & Another***³ wherein at paragraph Nos.42 and 43 held as follows:

"42. A question of law would arise when the same is not dependent upon examination of evidence, which may not require any fresh investigation of fact. A question of law would, however, arise when the finding is perverse in the sense that no legal evidence was brought on record or jurisdictional facts were not brought on record.

43. We are not oblivious of the proposition of law as was stated by Frankfurter, J. in J.J. O'Leary v. Brown-Pacific-Maxon Inc. [95 L Ed 483 : 340 US 504 (1950)] that the court will not disturb a finding of an administrative tribunal when two views are possible and only because the appellate court can take a contrary view. But in the instant case, the Commissioner did not

³ (200) 11 SCC 668



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go into the jurisdictional facts nor arrived at any finding based on any legal evidence in regard to the causal connection between the employment and the death."

18. This Court also places reliance on the judgment of the division bench of this Court in the case of ***Maharajagrasen Hospital v/s Tulsi Joshi and Others***⁴ wherein at paragraph No.16 reads as follows:

"16. As held in Northeast Karnataka Road Transport Corporation v. Sujatha (2019) 11 SCC 514, an appeal under Section 30 of the EC Act would lie if only a substantial question of law arises. In this case, as noticed earlier, the learned Commissioner has erred in relying on Section 106 of the Evidence Act to conclude that the burden of proof lay on the management to prove that the deceased was not their employee. It is well settled that the initial burden to prove the foundational facts that the deceased was employed/engaged either directly or through a contractor by the respondent/management is on the claimants. It is only when the said aspect is established, the onus of proof would shift to the respondent/management to rebut the same or rebut/discredit the case put in by the claimants. That being the position, the conclusion based on a wrong

⁴ 2026 AAC 226 (Del):: AIR Online 2025 DEL 1757
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understanding or interpretation of law did raise a substantial question of law in the appeal and hence arguments to the contrary are liable to be rejected."

19. This Court also places reliance on the judgment of the division bench of this Court in the case of **North East Karnataka Road Transport Corporation vs. Sujatha**⁵ at paragraph Nos.9 to 11 it is held as under:

*"9. At the outset, we may take note of the fact, being a settled principle, that the question as to whether the employee met with an accident, whether the accident occurred during the course of employment, whether it arose out of an employment, how and in what manner the accident occurred, who was negligent in causing the accident, **whether there existed any relationship of employee and employer**, what was the age and monthly salary of the employee, how many are the dependants of the deceased employee, the extent of disability caused to the employee due to injuries suffered in an accident, whether there was any insurance coverage obtained. by the employer to cover the incident, etc., are some of the material issues which arise for the just decision of the Commissioner in a claim petition when an*

⁵ 2019 ACJ 29



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employee suffers any bodily injury or dies during the course of his employment and he/his LRs sue/s his employer to claim compensation under the Act.

10. The aforementioned questions are essentially the questions of fact and, therefore, they are required to be proved with the aid of evidence Once they are proved either way, the findings recorded thereon are regarded as the findings of fact.

11. The appeal provided under section 30 of the Act to the High Court against the order of the Commissioner lies only against the specific orders set out in clauses (a) to (e) of section 30 (1) of the Act with a further rider contained in first proviso to the section that the appeal must involve substantial question of law."

(Emphasis supplied)

20. In the instant case, even though RW1 has given evidence that he is the proprietor of respondent No.1 and 3; initially deposed that the owner of offending car is a claimant; in the cross-examination, he has categorically admitted that the said vehicle stands in his name and he has given statement in MVC case that the present claimant - Nagaraju B.R was only the driver of car and he has taken the interim

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custody of car after its seizure in a criminal case due to accident; he admitted that RC stands in his name. Under these circumstances, considering the aforesaid evidence, the Commissioner has rightly come to the conclusion that the claimant has established employee and employer relationship between him and respondent No.1. There is no perversity in said finding. Hence, no substantial question of law would arise for consideration in this case.

21. Accordingly, this Court passes the following:

ORDER

Appeal is ***dismissed.***

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**(GEETHA K.B.)
JUDGE**

SPV
List No.: 1 Sl No.: 33