NC: 2024:KHC:52630
MFA No. 4537 of 2020
C/W MFA No. 5572 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE N S SANJAY GOWDA

MISCELLANEOUS FIRST APPEAL NO.4537 OF 2020(ECA)

C/W

MISCELLANEOUS FIRST APPEAL NO.5572 OF 2021

IN MFA NO.4537/2020:

BETWEEN:

1. THE MANAGER
   SHRIRAM GENERAL INSURANCE COMPANY LTD.
   E-8, RIICO INDUSTRIAL AREA
   SEETHAPURA, JAIPUR – 302 022
   RAJASTHAN

   NOW REP. BY
   SHRIRAM GIC. LTD.
   NO.5/4, 3RD FLOOR, S. V. ARCADE
   BELEKAHALLI MAIN ROAD
   OFF. B. G. ROAD, LIMB POST
   BENGALURU - 560 076

   …APPELLANT

(BY SRI B. PRADEEP, ADVOCATE)

Digitally signed by KIRAN KUMAR R
Location: HIGH COURT OF KARNATAKA

AND:

HARISH J.
SINCE DEAD BY LRS

1. K. R. JAYASHANKAR
   S/O. K. V. RAYAR
   AGED ABOUT 58 YEARS

2. SMT. VIJAYALAKSHMI
W/O. K. R. JAYASHANKAR
AGED ABOUT 53 YEARS

RESPONDENT NOS.1 AND 2 ARE
R/AT NANDIBATTALUR COLONY
LINGADAHALLI HOBLI
TARIKERE TALUK
CHIKKAMAGALURU DISTRICT

3. MANJUNATHA
S/O. NARAYANA
MAJOR
R/O. NO.122
N. B. COLONY, TARIKERE
CHIKKAMAGALURU DISTRICT

4. A. BHASKAR
S/O. R. SWAMY
MAJOR
NO.122, N. B. COLONY
TARIKERE
CHIKKAMAGALURU DISTRICT.

…RESPONDENTS

(BY SRI N. R. RAVIKUMAR, ADVOCATE FOR R-1 AND R-2;
VIDE ORDER DATED 04.11.2024, NOTICE TO R-3 IS DISPENSED WITH;
SIR PRADEEP NAIK K., ADVOCATE FOR R-4)

THIS MFA IS FILED UNDER SECTION 30(1) OF EMPLOYEES COMPENSATION ACT AGAINST THE JUDGMENT AND AWARD DATED 24.12.2019 PASSED IN ECA NO.55/2014 ON THE FILE OF THE SENIOR CIVIL JUDGE AND PRL. JMFC, TARIKERE, AWARDING COMPENSATION OF RS.10,21,280/- WITH INTEREST AT 12% P. A. FROM THE DATE OF DEATH OF THE DECEASED HARISH i.e. 26.09.2017 TILL ITS REALIZATION.

IN MFA NO.5572/2021:

BETWEEN:

1. K. R. JAYASHANKAR
   S/O. K. V. RAYAR
   AGED ABOUT 58 YEARS
   COOLIE

2. SMT. VIJAYALAKSHMI
   W/O. K. R. JAYASHANKAR
   AGED ABOUT 53 YEARS
   COOLIE

   BOTH ARE RESIDING AT
   NANDIBATTALUR COLONY
   LINGADAHALLI HOBLI, TARIKERE TALUK
   CHIKKAMAGALURU DISTRICT – 577 228

...APPELLANTS

(BY SRI RAVIKUMAR N. R., ADVOCATE)

AND:

1. MANJUNATHA
   S/O. NARAYANA
   DRIVER OF THE LORRY
   S/O. R. SWAMY
   C/O. A. BHASKAR
   R/O. NO.122, N. B. COLONY
   TARIKERE, CHIKAMAGALURU DISTRICT
   CHIKAMAGALUR – 577 228

2. A. BHASKAR
   S/O. R. SWAMY
   OWNER OF THE LORRY
   MAJOR
   NO.122, N. B. COLONY
   TARIKERE

CHIKKAMAGALURU DISTRICT – 577 228

3. THE BRANCH MANAGER
SHRI RAM GENERAL INSURANCE COMPANY LTD.
E-8, ERIP, RUCO, INDUSTRIAL AREA
SEETHAPURA, JAIPUR
RAJASTHAN STATE – 302 022

...RESPONDENTS

(BY SRI PRADEEP NAIK K., ADVOCATE FOR R-2;
SRI B. PRADEEP, ADVOCATE FOR R-3)

THIS MFA IS FILED UNDER SECTION 30(1) OF EMPLOYEES COMPENSATION ACT, AGAINST THE JUDGMENT AND AWARD DATED 24.12.2019 PASSED IN E.C.A NO. 55/2014 ON THE FILE OF THE SENIOR CIVIL JUDGE AND PRINCIPAL J.M.F.C., TARIKERE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR JUSTICE N S SANJAY GOWDA

ORAL JUDGMENT

1. A claim petition was filed before the Commissioner for Employees' Compensation (***Commissioner***) under the provisions of the Employees' Compensation Act stating that son of the claimants while working as a cleaner in the lorry suffered as an suffered an accident when he was tying the timber

loaded to the lorry, the lorry suddenly moved as a result of which the timber logs fell on him causing grievous injuries to his spinal cord. The incident, as stated above, occurred on 02.10.2010 and the claim petition was filed in the year 2012 and during the pendency of the claim proceedings, Harish succumbed to the injuries and as a consequence the claim was sought on the premise that the claimants being his parents were entitled for the compensation for his death.

2. The tribunal has accepted this plea and awarded a sum of Rs.10,21,280/- and also granted interest from the date of the death of Harish i.e., from 26.09.2017.

3. Being aggrieved, both the insurer as well as the claimants are in appeal.

4. The insurer basically contends that there is no complaint lodged regarding the occurrence of the

accident during the course of his employment and therefore, the Commissioner could not have come to the conclusion that the owner of the lorry was responsible and consequently the insurer was liable to indemnify the same.

5. The Commissioner has recorded a finding of fact that the accident occurred on 02.10.2010 when the timber which had been loaded on the loaded onto the lorry fell down on Harish.

6. It has also recorded a finding that he was hospitalized till 03.02.2011 and ultimately succumbed to the injuries on 26.09.2017. The evidence on record indicates that he had suffered serious spinal cord injury and was a paraplegic eversince the date of the accident.

7. In my view, in light of this finding of fact the appeal of the insurer would not be maintainable.

8. It is to be stated here that the Commissioner on consideration of the evidence clearly come to the conclusion that the accident did occur on 02.10.2010 and merely because an FIR was not lodged that would not disentitle an employee or his legal representatives to claim compensation. There is therefore no question of law to consider the appeal of the insurer. The same is accordingly ***dismissed***.

9. As far as the appeal of the claimants is concerned, the question of law that would arise for consideration is whether the Commissioner could have awarded interest only from the date of death and not from the date of the accident.

10. The Apex Court in the case of ***Shobha***[1] has held that in respect of an accident to an employee under the Act, the insurer would be liable to pay interest from the date of the accident.

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[1] *Shobha and Others v. Chairman, Vithalrao Shinde Sahakari Sakhar Karkhana Limited and Others, (2022)13 SCC 172*

11. In light of the said judgment, the question of law had to be answered in favour of the claimants and the insurer would have to pay interest from the date of the accident and not from the date of death of the deceased. Consequently, the appeal of the claimants is allowed to that extent.

12. The insurer is liable to pay interest at the rate of 12% per annum from the date of the accident within two months from the date of receipt of a certified copy of this judgment.

13. Upon deposit, Rs.1,50,000/- each shall be invested in a fixed deposit for a period of three (3) years in the name of each claimants in any Nationalised or Scheduled Bank of the claimants' choice with liberty to withdraw the interest accrued thereon, periodically, on the compensation amount. The remaining compensation amount along with accrued interest shall be released in favour of claimants.

14. The amount in deposit, if any, shall be transferred to the Tribunal forthwith.

15. The appeal filed by claimants is, accordingly, ***allowed in part***.

Sd/-
(N S SANJAY GOWDA)
JUDGE

HNM
List No.: 1 Sl No.: 15