CGHC010423002024 2026:CGHC:45155

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 90 of 2025

1. M/s A.W.X. Cacon Plant No. 196, Transport Nagar, Korba, Tehsil And District Korba Chhattisgarh.

2. Apoorva Wasan S/o Gulshan Wasan Aged About 37 Years R/o Plant No. 196, Transport Nagar, Korba, Tehsil And District Korba Chhattisgarh.

--- **Appellants**

versus

Manoj Patel S/o Dhaniram Patel Aged About 26 Years R/o Village Hardibazar, Police Station Kusmunda, District Korba Chhattisgarh.

--- **Respondent**

MAC No. 967 of 2023

Manoj Patel S/o Dhaniram Patel Aged About 26 Years R/o Village Haridibaazar, Police Station Kusmunda, District : Korba, Chhattisgarh

--- **Appellant**

Versus

1. A.W.X. Kakon Plant No. 196 Through Director, Transport Nagar Korba, Tahsil And District Korba (Chhattisgarh)

2. Apoorv Wasan S/o Gulshan Wasan R/o Plant No. 196 C. G. Transport Nagar, Korba, Tahsil And District Korba (Chhattisgarh)

--- **Respondents**

For Appellant/Respondent	**:**	Mr. Harshwardhan Agrawal, Advocate.
For Respondent/Appellant	**:**	Mr. Pravin Kumar Patel Advocate along with Vikas Patel, Advocate.

Hon'ble Shri Justice Sachin Singh Rajput

Judgment On Board

26.10.2026

1. Mr. Harshwardhan Agrawal, learned counsel, for the appellants and Mr. Pravin Kumar Tulsyan, along with Mr. Vikas Patel, learned counsel appearing for the respondent in MAC No. 90 of 2025.

2. Mr. Pravin Kumar Tulsyan along with Mr. Vikas Patel, learned counsel, appearing for the appellant and Mr. Harshwardhan Agrawal, learned counsel, appearing for the respondents in MAC No. 967 of 2023.

3. These two appeals have been filed under Section 30 of the Employees' Compensation Act, 1923 (for short, "the Act of 1923"), against the award dated 24.02.2023 passed by the Commissioner for Employees' Compensation-cum-Labour Court, Korba, District Korba (C.G.), in Case No. 14/E.C. Act/2022 (Non-Fatal). Both appeals are being heard and decided by this common judgment.

4. MAC No. 90 of 2025 has been filed by the alleged employer, whereas MAC No. 967 of 2023 has been filed by the claimant. The parties shall hereinafter be referred to as the claimant and the alleged employer.

5. Facts of the case are that the claimant filed an application under Section 10 of the Act of 1923 seeking compensation from his employer on account of permanent injuries and permanent disablement suffered by him in an accident that occurred on 25.02.2022, arising out of and in the course of his employment with the alleged employer.

6. As per the pleadings in the application, the claimant was working as a supervisor (Munshi) with the employer and apart from his supervisory duties, he was also engaged in driving vehicles and working as a cleaner and mechanic of vehicles owned by the alleged employer. It was further pleaded that the claimant was being paid a salary of Rs.12,000/-

and an additional amount of Rs.8,000/-, making his total monthly wages Rs.20,000/-.

7. The Notice of the claim application was issued to the alleged employer. However, as none appeared on their behalf, they were proceeded against ex-parte. The claimant led evidence before the learned Commissioner, who thereafter passed an award granting compensation of Rs. 25,83,360/- by the impugned order.

8. Being aggrieved by the aforesaid award, the alleged employer as well as the claimant have preferred the present appeals.

9. This Court, on 01.09.2025, admitted MAC No. 90 of 2025 on the following substantial questions of law:

> "1. Whether the Commissioner erred in law in holding that there is employee and employer relation between claimant and non-applicants ?
>
> 2. Whether, the Commissioner committed error of law in passing ex-parte order ?
>
> 3. Whether the income of the injured assessed by the Commissioner is on higher side?"

10. MAC No. 967 of 2023 was also admitted on 01.09.2025 on the following substantial question of law:

> "1. Whether granting interest by the Commissioner at the rate of 6% per annum from the date of application, is perverse and illegal?
>
> 2. Whether, the Commissioner was justified in not awarding any amount towards penalty ?"

11. Learned counsel for the appellants in MAC No. 90 of 2025 submits that the appellants herein were arrayed as respondent Nos. 1 and 2 in the claim application before the learned Commissioner. However, a perusal of the order sheets passed by the learned Commissioner would show that, although notices were issued to both respondents therein, the notice issued to respondent No. 2 was served, whereas the notice issued to respondent No. 1 was returned un-served on account of the office being found closed. It is, therefore, submitted that notice of the claim application was never served upon respondent No. 1, yet the learned Commissioner proceeded ex-parte against it. The order passed by the learned Commissioner in this regard is, therefore, liable to be set aside.

12. Learned counsel further submits that, as per Notification No. का.आ. 71(अ) dated 03.01.2020, issued by the Central Government and published in the Gazette of India, the monthly wages to be taken into consideration for the purpose of computation of compensation under the Employees' Compensation Act, 1923, have been specified as Rs.15,000/-. However, the learned Commissioner assessed the compensation by taking the claimant's monthly wages as Rs.20,000/-, thereby exceeding the limit prescribed under the aforesaid notification. It is also contended that the claimant failed to establish the relationship of employer and employee between the parties. On these grounds, learned counsel submits that the findings recorded by the learned Commissioner are liable to be set aside and that the substantial questions of law be answered in favour of the appellants.

13. Per contra, Mr. Pravin Kumar Tulsyan along with Mr. Vikas Patel, learned counsel appearing for the claimant submit that the findings recorded by the learned Commissioner are justified in view of the facts

and circumstances of the case and the evidence available on record. They submit that respondent No. 2 is the proprietor of respondent No. 1 and, therefore, service of notice upon respondent No. 2 would establish that respondent No. 1 was aware of the proceedings before the learned Commissioner though the signature was unavailable in the aforesaid notice of respondent No. 2. It is further submitted that, in any event, the respondent would have an opportunity to participate in the proceedings upon remand. With regard to the relationship of employer and employee, learned counsel submit that the same stands duly established by the oral evidence of the claimant. As the claimant's testimony was not subjected to cross-examination, there was no reason for the learned Commissioner to disbelieve his evidence. Accordingly, the finding recorded in this regard does not warrant interference.

14. Learned counsel for the claimants, however, are not in a position to dispute that, in terms of the applicable notification No. का.आ. 71(अ) dated 03.01.2020, issued by the Central Government and published in the Gazette of India, the maximum monthly wages to be taken into consideration for the purpose of computation of compensation are Rs.15,000/-.

15. Learned counsel further submits that no penalty was imposed upon the alleged employer, whereas interest at the rate of 6% per annum was awarded. The substantial questions of law, therefore, deserve to be answered in favour of the claimants, and the appeal preferred by the alleged employer deserves to be dismissed.

16. I have heard learned counsel for the parties and perused the record with utmost circumspection.

17. There is no dispute that, in the cause title of the application filed under Section 10 of the Act of 1923, two parties were arrayed as respondent

Nos. 1 and 2. Respondent No. 1 is stated to be M/s A.W.X. Cacon Plant No. 196, Transport Nagar, Korba, Tehsil And District Korba Chhattisgarh, whereas respondent No. 2 is Apoorva Wasan S/o Gulshan Wasan Aged About 37 Years R/o Plant No. 196, Transport Nagar, Korba, Tehsil And District Korba Chhattisgarh.

18. A perusal of the record would show that notices were issued to both respondents by the learned Commissioner. However, the order sheet dated 11.11.2022 indicates that notice was served upon respondent No. 2, whereas the notice issued to respondent No. 1 remained un-served as its office was found closed. Though learned counsel for the appellant in MAC No. 90 of 2025 has sought to persuade this Court that respondent No. 1 is a firm and respondent No. 2 is the person managing its affairs, no document has been placed on record to establish that respondent No. 2 is the proprietor of the firm.

19. Apart from the aforesaid aspect, it is also not in dispute that, in terms of the applicable notification No. का.आ. 71(अ) dated 03.01.2020, issued by the Central Government and published in the Gazette of India, the maximum monthly wages to be taken into consideration for the purpose of computation of compensation are Rs.15,000/-, whereas the learned Commissioner assessed the compensation by taking the claimant's monthly wages as Rs.20,000/-. Prima facie, the assessment of wages is contrary to the prescribed ceiling.

20. In view of the aforesaid discussion, this Court is of the considered opinion that the learned Claims Tribunal committed an error in proceeding ex-parte against respondent No. 1 without service of notice upon it. The finding in this regard cannot be sustained and warrants interference.

21. Accordingly, the substantial question of law concerning the validity of the ex-parte proceedings is answered in favour of the appellant in MAC No. 90 of 2025. The matter is required to be remitted to the learned Commissioner for fresh adjudication in accordance with law.

22. Since the matter is being remanded to the learned Commissioner for Employees' Compensation-cum-Labour Court, Korba, District Korba (C.G.), for fresh consideration of the claim application in Case No. 14/E.C. Act/2022 (Non-Fatal), this Court is not inclined to decide the remaining substantial questions of law at this stage, as the same may be affected by the findings recorded upon such fresh consideration.

23. The parties are directed to appear before the Commissioner for Employees' Compensation on 22.12.2026.

24. The record be transmitted back to the learned Commissioner forthwith.

25. It is made clear that the parties shall be at liberty to file their respective pleadings and additional documents and to lead further evidence, if so advised, in support of their respective cases.

26. The amount deposited by the appellants shall not be recovered from the claimant at this stage and shall remain subject to the final outcome of the claim application.

27. The learned Commissioner shall make every endeavour to decide the claim application expeditiously, preferably within a period of six months from the date of appearance of the parties.

28. Both the appeals stand **disposed of** in the aforesaid terms.

Sd/-
(Sachin Singh Rajput)
Judge

Abhishek