HC-KAR

NC: 2026:KHC:62193
MFA No. 816 of 2014

CNR: KAHC010048692014

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.816 OF 2014 (WC)

BETWEEN:

NATIONAL INSURANCE CO. LTD.,
GANDHI BAZAR BANGALORE-4,
THROUGH ITS REGIONAL OFFICE,
#144, SUBHARAM COMPLEX,
M.G.ROAD, BANGALORE - 560 001,
REP. BY ITS DEPUTY MANAGER
SRI R.LAKSHMANA RAO.

...APPELLANT

(BY SRI BHUVAN B.M., ADVOCATE FOR
SRI B C SEETHA RAMA RAO, ADVOCATE)

AND:

Digitally signed by ANUSHA V
Location: High Court of Karnataka

1. SRI RANGANATHACHAR @ RANGACHAR
S/O LATE PATHLA RANGACHAR,
SINCE DEAD REP. BY HIS LRs

2(a) SMT.VINODAMMA
SRI RANGANATHACHAR @ RANGACHAR,
SINCE DEAD REP. BY HER LRs

2(b) SMT.MANJAMMA,
AGED ABOUT 33 YEARS,
D/O LATE RANGANATHACHAR @ RANGACHAR

2(c) SRI UMESH,
AGED ABOUT 31 YEARS,
S/O LATE RANGANATHACHAR
@ RANGACHAR

BOTH R/A BACHENAHATTI,
KASABA HOBLI, MAGADI TALUK,
RAMANAGARA DISTRICT.

3. SRI RAMESH
S/O NARASIMHA MURTHY,
R/A NO.442, 3RD MAIN ROAD,
THIMMENAHALLI,
MAGADI MAIN ROAD,
CORPORATION COLONY,
BANGALORE - 79.
(OWNER OF AUTO NO.KA-02-B-1988)

…RESPONDENTS

[BY SRI B.N.GOPAL KRISHNA, ADVOCATE FOR R1 & R2 (b & c);
V/C/O DTD 08.08.2019 SERVICE OF NOTICE FOR R3 IS H/S]

THIS MFA IS FILED U/S 30(1) OF W.C.ACT AGAINST THE JUDGMENT DATED 15.7.2013 PASSED IN WCA/CWC/F/CR-23/2010 ON THE FILE OF THE LABOUR OFFICER AND COMMISSIONER FOR WORKMEN COMPENSATION, RAMANAGAR DISTRICT, RAMANAGAR, AWARDING A COMPENSATION OF RS.3,85,162/- WITH INTEREST @ 12% P.A WITHIN 30 DAYS FROM THE DATE OF ORDER.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 15.07.2013 passed by Labour Officer and Workmen's Compensation

Commissioner, Ramanagar District, Ramanagar, ('**Commissioner**', for short) in WCA no.23/2010, this appeal is filed.

2. Sri Bhuvan B.M., learned counsel appearing for Sri Seetha Rama Rao B.C., advocate for appellant submitted that appeal was by insurer challenging finding of Commissioner on relationship of employer and employee and consequently for setting aside of award.

3. Brief facts leading to this appeal as stated were that at 10:00 pm on 17.06.2010, when Prakash (**employee**) was driving Auto Rickshaw no.KA-02/B-3988 belonging to one Ramesh S/o Narsimha Murthy (**owner** / **employer**) on Magadi - Bangalore road ferrying passengers, Auto Rickshaw dashed against stub of fallen tree and thereby toppled. In accident, Prakash sustained grievous injuries and succumbed to same while under treatment. It was stated that at time of accident, deceased Prakash was 23 years of age, working as driver and getting sum of Rs.300/- per day. Claiming compensation towards loss of dependency, his parents filed application under

Section 22 of Workmen's Compensation Act, 1923 ('**WC Act**') against insurer and employer.

4. Claim petition was opposed on all grounds, including specific contention about disputing relationship of employer and employee, based on which, Commissioner framed issues and recorded evidence.

5. In support of claim petition, claimant no.1 - father of deceased deposed as PW.1 and got marked FIR, Charge Sheet, Mahazar, Accident Spot Sketch, Motor Vehicle Inspector's Report, Inquest Panchanama, Ration Card, SSLC Marks Card, Medical Bills and Prescriptions, Driving Licence and Post-mortem Report marked as Exs.P1 to P12. On other hand, owner did not appear and was placed *ex-parte*. Only insurer led evidence by examining its official as RW.1 and getting marked copies of insurance policy, notice issued to owner and authorization letter as Exs.R1 to R3.

6. On consideration, Commissioner passed impugned award holding relationship of employer and employee, occurrence of accident in course of and out of employment as

established and claimants being entitled for compensation of Rs.3,85,162/-. Aggrieved by same, appeal was filed.

7. It was submitted that appeal was admitted on 18.03.2021 on following substantial questions of law.

1. *Whether the Commissioner acted contrary to law in making the appellant liable to indemnify their insured against the award made for the death of the cleaner whose risk is neither covered under the policy or under Section 147 of the Motor Vehicles Act?*

2. *Whether the order/award of the trial Court is otherwise opposed to law, material evidence on record?*

8. It was submitted that finding of Commissioner about relationship of employer and employee was without any basis and contrary to material record. Drawing attention of this Court to observations of Commissioner while answering issues no.1 and 2 after enumerating documents relied upon by claimants, without any reasoning conclusion was arrived at that relationship of deceased would answered description of

employee. It was submitted that complaint would in fact contain an assertion that deceased had obtained Auto Rickshaw on hire. Statements of claimant no.1 - Ranganathachar, father of deceased along with Narayanappa and Venkatesh recorded at time of inquest panchanama mentioned would corroborate same. It was submitted that in course of cross-examination, suggestions were made about failure to produce any documents to substantiate employment. Except denial there was no effort on part of claimants to substantiate relationship. It was further submitted even while giving finding on issue no.3, Commissioner had observed that there was no material to substantiate wages filed by claimants, which would substantiate that finding of Commissioner about relationship of employer and employee was without any basis and in fact contrary to material on record and as such would be perverse. Therefore, sought for allowing appeal.

9. On other hand, Sri B.N. Gopal Krishna, learned counsel for respondents - claimants opposed appeal and would make fervent prayer for remand of matter. It was submitted that statements of Ranganathachar - claimant no.1,

Narayanappa and Venkatesh referred to inquest panchanama were not signed and could not be relied upon. Noting in complaint about taking Auto Rickshaw on hire would be misunderstanding and in fact deceased was operating Auto Rickshaw for owner and after remission of entire collection of day, driver would be paid Rs.300/- and when same is considered, he would fall within definition of employee and award would be unacceptable. It was further submitted owner had remained *ex-parte* and in case this Court comes to conclusion about lack of evidence to establish relationship of employer and employee, matter may be remitted back.

10. Heard learned counsel, perused impugned judgment, award and as well as copies of relevant records furnished by learned counsel for appellant along with memo.

11. Substantial questions of law framed are about perversity of finding of Commissioner about relationship of employer and employee. Bare perusal of impugned award would indicate that only basis for Commissioner holding said issues in favour of claimants are police investigation records.

Perusal of FIR and complaint would not indicate that deceased Prakash was taking Auto Rickshaw on hire from owner on terms as sought to be contended by learned counsel for claimants that deceased was being paid Rs.300/- per day by owner. There is no material to substantiate same. On contrary contents of complaint would indicate Auto Rickshaw being taken on hire in which case, deceased would not be an employee, but hirer of vehicle who would not be covered under Workmen's Compensation Act. Infact, there is absolutely no reasoning on finding about relationship of employer and employee, rendering finding perverse.

12. Insofar as request for remand, it is seen that in course of cross-examination of deceased father, insurer made clear suggestions about lack of material to establish relationship of employer and employee as well as possibility of examination of employer. Except denial, there is no effort on part of claimants. Besides contents of complaint, inquest panchanama recording statements of father of deceased as well as two others would also indicate that Auto Rickshaw was being taken on hire. In view of above material and insurer having

taken a specific contention and led evidence to substantiate same, Commissioner would not be justified in arriving at conclusion, that too without any reasoning. Hence, substantial questions of law are answered in favour of insurer. Consequently, following:

ORDER

i) Appeal ***succeeds***.

ii) Judgment and award dated 15.07.2013 passed by Commissioner in WCA no.23/2010, is ***set-aside***.

iii) Claim petition filed by claimants is ***dismissed***.

iv) Amount in deposit is ordered to be refunded to appellant - insurer.

Sd/-
(RAVI V HOSMANI)
JUDGE

GRD
List No.: 1 Sl No.: 19