IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 12TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCL. FIRST APPEAL NO.202054 OF 2019 (ECA)

BETWEEN:

THE DIVISIONAL CONTROLLER,
NEKRTC, RAICHUR,
BUS NO.KA-36/F-1511, SINDHNUR DEPOT,
(REPRESENTED BY CHIEF LAW OFFICER).

…APPELLANT

(BY SRI. DEEPAK V. BARAD, ADVOCATE)

AND:

1. SMT. SHOBHA W/O LATE RAJSHEKAR,
   AGE: 23 YEARS, OCC: HOUSEHOLD,

2. SMT. BASAMMA W/O SHARNAPPA,
   AGE: 54 YEARS, OCC: AGRICULTURE,

   BOTH ARE R/O KUNNEKALLUR VILLAGE,
   TQ. LINGSUGURU, DIST. RAICHUR-584 101.

…RESPONDENTS

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THIS MFA IS FILED UNDER SECTION 30(1) OF THE EMPLOYEES COMPENSATION ACT, PRAYING TO ALLOW THE MFA AND CONSEQUENTLY BE PLEASED TO SET ASIDE THE JUDGMENT AND AWARD DATED 22.06.2019 PASSED BY THE SENIOR CIVIL JUDGE AND JMFC AT LINGASUGUR IN ECA NO.03/2018 AND CONSEQUENTLY PLEASED TO DISMISS THE CLAIM PETITION AGAINST THE APPELLANT.

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

CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE C M JOSHI)

The substantial question of law that has been framed by this Court reads as below:

> *"Whether the Tribunal is justified in fixing the liability to an extent of Rs.22,08,228/- upon the appellant by considering the income of the deceased-Rajashekhar as Rs.20,853/- per month and if not, to what relief?"*

2. The factual background of the case is that on 21.03.2018 the deceased-Rajashekhar, was working as a driver under the appellant-Corporation and while he was proceeding towards Sindhanur by driving the bus No.KA-36/T-1511, there was a collision with the lorry bearing No.KA-41/A-6993 and due to the accident he succumbed to the injuries.

3. The dependents of the deceased approached the learned Commissioner under the provisions of the

Employees Compensation Act (hereinafter referred to as 'E.C.Act' for short), seeking compensation.

4. The learned Commissioner, after perusing the evidence placed on the record, which is in the form of the pay slip issued by the appellant herein, came to the conclusion that the wages of the deceased was to the extent of Rs.20,853/- per month and awarded a compensation of Rs.22,08,228/-.

5. Being aggrieved by the said judgment, the respondent-employer Corporation is before this Court in this present appeal.

6. The learned counsel appearing for the appellant-Corporation submits that the learned Commissioner should have taken the wages of the deceased as per the notification issued by the Government of India under Section 4 (1-B) of the E.C. Act, but on the other hand the Commissioner has accepted the wages as per the pay slip at Ex.P-13 and therefore, the impugned judgment is not sustainable in law.

7. He submits that the provisions of Section 4 (1-B) of the E.C. Act, is mandatory in nature and therefore, the Commissioner could not have taken the income at Rs.20,853/- as monthly income.

8. A careful perusal of Section 4 of the E.C. Act, discloses that the Central Government may issue a notification under Section 4 (1-B) of the E.C. Act, in which case the wages are to be taken at Rs.8000/- per month, in the absence of any cogent evidence. It is to be observed that, wherever the wages of the workmen employed by various employers is abysmally low and is not in accordance with the provisions of the minimum wages Act, the notification issued under Section 4 (1-B) will have the relevance. If the actual wages is more than the wages notified under section 4 (1-B) there is no bar to consider such wages for the purpose of calculation of the compensation. Therefore, when the objectives of the provisions of the E.C. Act, particularly Section 4 (1-B) of the Act, is appreciated, it is evident that there is no

mandate to the learned Commissioner to consider the wages fixed under Section 4 (1-B) of the E.C. Act, only. The Commissioner is at liberty to consider the higher wages, if there is evidence to that effect. Under these circumstances, the substantial question of law raised has to be answered in the affirmative. The learned Commissioner was justified in considering the income of the deceased-Rajashekhar at Rs.20,853/- per month and thereby in awarding the sum of Rs.22,08,228/-. Hence the appeal is bereft of any merits and as such, the same is liable to be dismissed.

9. Hence, the ***appeal is dismissed***.

Sd/-
(C M JOSHI)
JUDGE

TMP
List No.: 1 Sl No.: 73
CT: AK