IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 2ND DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCL. FIRST APPEAL NO.202855 OF 2023 (ECA)

BETWEEN:

1. SHASHIKALA W/O LATE RAM JAMADAR,
   AGE: 46 YEARS, OCC: HOUSEHOLD,

2. NEELESH S/O LATE RAM JAMADAR,
   AGE: 23 YEARS, OCC: STUDENT,

3. MAHESH S/O LATE RAM JAMADAR,
   AGE: 21 YEARS, OCC: STUDENT,

4. URMILA D/O LATE RAM JAMADAR,
   AGE: 17 YEARS, OCC: STUDENT,
   APPELLANT NO. 4 U/G OF HER NATURAL MOTHER
   THE APPELLANT NO.1,

   ALL ARE R/O MAOULINAGAR, MADAJ,
   TQ. UMARGA, DIST. OSMANABAD.

Digitally signed by SHIVALEELA DATTATRAYA UDAGI
Location: HIGH COURT OF KARNATAKA

...APPELLANTS

(BY SRI. KRUPA SAGAR PATIL, ADVOCATE)

AND:

1. FAREED S/O NABISAB SHAIKH,
   AGE: 51 YEARS, OCC: BUSINESS AND RC HOLDER
   OF ASHOK LEYLAND LORRY NO. KA-56-4437,
   R/O H. NO. 27/3, TAJ COLONY, BASAVAKALYAN,
   DIST. BIDAR,
   PRESENTLY AT KUBRA COLONY,
   HIRAPUR, KALABURAGI-585 105.

2. ROYAL SUNDARAM GENERAL INSURANCE CO. LTD.,
THROUGH ITS BRANCH MANAGER,
DOOR NO. 3, 3RD FLOOR, IDBI BANK,
MAHANT ARCADE, MAHANTH NAGAR,
SB TEMPLE ROAD, KALABURAGI-585 103.

…RESPONDENTS

(BY SRI. S.S. ASPALLI, ADV. FOR R2;
V/O DTD. 17.08.2023, NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 30(1) EMPLOYEE'S COMPENSATION ACT, PRAYING TO MODIFY THE JUDGEMENT AND AWARD DATED 05.04.2023, PASSED BY THE PRL. SENIOR CIVIL JUDGE AT KALABURAGI, IN THE FILE BEARING. E.C.A NO. 06/2022 BY ENHANCING THE COMPENSATION AS PRAYED FOR.

THIS APPEAL COMING ON FOR ADMISSION, 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)

Heard the learned counsel for the appellant and respondent No.2.

2. Though, this appeal is slated for admission, the same is taken up for disposal with consent of learned counsel for both the parties.

3. The short point that arise for consideration in this appeal is whether the learned Commissioner could have taken the income the deceased at Rs.11,000/- per month, even though the notification issued by the Central Government U/s 4(1B) of the Employees Compensation Act specifies the amount at Rs.15,000/- per month.

4. It is the case of the petitioners before the learned Commissioner that on 09.09.2021, the deceased was the cleaner in the lorry owned by the respondent No.1 insured by respondent No.2, succumbed to the injuries in the accident. It was contented that the driver of the lorry suddenly applied the brakes to save a dog crossing the road and the deceased who was sitting in the cabin of the lorry fell down on the road and sustained injuries and died on the spot. Petitioners contended that the deceased was working as a cleaner earning Rs.15,000/- per month and

since he died during the course of the employment, they are entitled for the compensation.

5. The Tribunal held that there was no proof of the monthly salary of the deceased. It was noticed by the learned Commissioner that the respondent No.1 though admitted that the deceased was his employee and that he was paying a sum of Rs.15,000/- as a monthly salary to the deceased, even then he held that there is no such evidence and basing on the notification under the Minimum Wages Act, held the salary at Rs.11,000/-. Accordingly, calculated the compensation amount.

6. The notification issued by the Central Government under Section 4 (1-B) of the Employees Compensation Act dated 03.01.2020 specify the monthly wages at Rs.15,000/-. The said notification obviously has come into force on the date of the notification itself. Therefore, the learned Commissioner could not have relied upon the wages under the Minimum Wages Act. When the Employees Compensation Act itself prescribed and

mandates that the salary specified under Section 4 (1-B) has to be adopted for the purpose of calculation of the compensation amount under Section 4(1) of the Act, it was unnecessary for the learned Commissioner to fall back on the Minimum Wages Act. Of course, the provisions of Section 4 (1-B) come into play wherever the proof of the salary is not placed on record. In the case on hand also, the proof of the salary was not placed on record though the respondent No.1 admitted the salary of Rs.15,000/- per month. Even if we exclude the admission of the respondent No.1 that he was paying Rs.15,000/- per month, the notification issued by the Government of India under Section 4 (1-B) of the Act would hold the field. Therefore, the learned Commissioner was not justified in falling back on the wages fixed under the Minimum Wages Act.

7. In the light of the above, as a corollary to the above discussion, what emerges is that the learned Commissioners have to adopt the wages fixed under

Section 4(1-B) of the Act, wherever there is no material to show the wages of either the injured or the deceased. Under these circumstances, the question raised above is answered in the negative.

8. Consequently the compensation is calculated as Rs.15,000/- x 50% x 175.54 = **13,16,550/-** in addition to it, the petitioners are entitled for funeral expenses at **Rs.10,000/-**.

9. Accordingly, the petitioners are entitled for a total compensation of **Rs.13,26,550/-.**

10. Hence, the following:

ORDER

The appeal is allowed.

The appellants/petitioners are entitled for a sum of **Rs.13,26,550/-** instead of Rs.9,65,500/- along with interest at the rate of 12% p.a. from the date of expiry of 30 days of the date of

the accident, till deposit before the learned Commissioner.

Sd/-
(C M JOSHI)

SMP
List No.: 1 Sl No.: 45
CT: AK