NC: 2025:KHC-K:963
MFA No. 201698 of 2021

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 11TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE C.M. JOSHI

MISCL. FIRST APPEAL NO.201698/2021(ECA)

BETWEEN:

SHANKAR S/O BHIMARAY AGASAR,
AGE: 59 YEARS, OCC: DRIVER, NOW NIL,
R/O INDI ROAD, VIJAYAPURA,
VIJAYAPURA-586 103.

...APPELLANT

(BY SRI BAPUGOUDA SIDDAPPA, ADVOCATE)

AND:

Digitally signed by LUCYGRACE
Location: HIGH COURT OF KARNATAKA

1. RAMESH S/O SOMANNA DODDAMANI,
   AGE: MAJOR, OCC: BUSINESS,
   R/O GUBBEWADA, TQ. SINDAGI,
   DIST. VIJAYAPURA-586 128.

2. THE GENERAL MANAGER,
   ROYAL SUNDARAM ALLIANCE INSURANCE
   COMPANY LTD.,
   SUNDARAM TOWERS 45 & 46, WHITES ROAD,
   CHENNAI-600 014.

...RESPONDENTS

(BY SRI SUDARSHAN M., ADV., FOR R2;
R1 - V/O. DTD. 25.01.2022 NOTICE DISPENSED WITH)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 30(i) OF THE EMPLOYEE'S COMPENSATION ACT, 1923, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 08.07.2020 PASSED IN ECA NO.201/2014 ON THE FILE OF THE COURT OF THE III ADDITIONAL SENIOR CIVIL JUDGE AND COMMISSIONER FOR EMPLOYEE'S COMPENSATION VIJAYAPURA, AT VIJAYAPURA AND TO MODIFY THE SAID JUDGMENT AND AWARD BY ENHANCING THE COMPENSATION OF RS.4,56,684/- ONLY AS CLAIMED BY THE APPELLANT BEFORE THIS COURT.

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)

1. Though the matter is slated for admission, with the consent of both the parties it is taken up for final disposal.

2. The short point for consideration before this Court is, whether the Commissioner was justified in taking the wages of the appellant at Rs.3,000/-, though the notification issued by the Central Government under Section 4(1-B) prescribes the minimum wages at Rs.8,000/- per month.

3. The petitioner claimed that he was employed as a driver on a truck bearing No.KA-28/A-7306 owned by respondent No.1 and insured by respondent No.2 and he was earning a salary of Rs.4,000/- per month. On 22.07.2011 when he was tying rope above load on the truck, he slipped and fell down and suffered trochanteric fracture of femur and such injury being suffered by him during the course of the employment, respondent Nos.1 and 2 are liable to pay the compensation to him, since, it had occurred during the use of the vehicle. Respondent No.1 did not appear before the learned Commissioner to contest the petition. However, respondent No.2 contested the same. After trial, the learned Commissioner held that there being no sufficient material to hold the income of the petitioner to be Rs.4,000/- per month, he assessed the same at Rs.3,000/- per month and awarded a compensation of Rs.43,316/- by considering the disability at 10%.

4. The appellant contends that the Commissioner should have taken the wages of the petitioner at Rs.8,000/- in view of the notification issued by the Central Government under Section 4(1-B) of the Employees Compensation Act.

5. *Per contra,* learned counsel appearing for respondent No.2 - Insurance Company submits that when the petitioner himself had claimed the income at Rs.4,000/- per month, no fault can be found with the learned Commissioner in assessing the wages at Rs.3,000/- per month.

6. Having heard the learned counsel appearing for the parties, I have perused the material on record.

7. It is pertinent to note that the provisions of Section 4(1-B) of the Employees Compensation Act (for short 'the E.C. Act') contemplates a notification to be issued by the Government of India from time to time, fixing the wages for the purpose of computing the compensation under the provisions of the E.C. Act. The object of such notification being issued under Section 4(1-B) is to ensure that the

wages are to be in consonance with the minimum wages applicable under the provisions of the Minimum Wages Act. The Minimum Wages Act prescribes the wages based on the skill levels and it differs from one area to another. In order to obviate the complications of computing such wages under the Minimum Wages Act, based on the skill levels and the area of the work, the Central Government is empowered under Section 4(1-B) to notify the wages. In other words, the minimum wages prescribed under Section 4(1-B) is to be applied even though the claim or the agreed wages between the parties is less than the notified wages. Therefore, it is not proper for the learned Commissioner to reduce the wages even below the one, which is admitted by the petitioner. Hence the learned Commissioner has erred in not accepting the wages notified under Section 4(1-B) of the E.C. Act. In the result, the compensation has to be assessed by taking the wages at Rs.8,000/- per month as notified by the Central Government in the year 2010. Consequently, the compensation is recalculated as 60% of Rs.8,000/- = Rs.4,800/- x 10% x 146.20 = 70,176/-.

8. In addition to this compensation, the petitioner is also entitled for medical expenses of Rs.17,000/-, which are as per the medical bills determined by the learned Commissioner. Accordingly, the petitioner is entitled for total compensation of (Rs.70,176/- + 17,000/-) Rs.87,176/-. The difference amount will be (87,176–43,316) Rs.43,860/-. Hence, the following:

ORDER

i) The appeal is allowed in part.

ii) The petitioner is entitled for difference amount of Rs.43,860/- with interest at 12% per annum from 30th day of the date of accident till the payment before the Commissioner (excluding interest for 394 days, the delay caused in filing the appeal, as per the order dated 25.01.2022) in addition to what has been awarded by the Tribunal.

Sd/-
(C.M. JOSHI)
JUDGE

SBS
List No.: 1 Sl No.: 58
CT: AK