

KABG600001522019



IN THE COURT OF SENIOR CIVIL JUDGE, HUKKERI
ITINERARY COURT AT SANKESHWAR

THIS THE 14th DAY OF AUGUST 2026

ECA No.04/2019

Present: RAJANNA SANKANNANAVAR,
B.A., LL.B.,(Spl.)
Senior Civil Judge, Hukkeri,
Itinerary Court at Sankeshwar.

Petitioner:

1. Shri Umesh S/o Dundappa Savalagi,
Age: 43 years, Occ : Driver Now nil,
R/o Near Advisideshwar Math, Hukkeri,
Tal : Hukkeri, Dist : Belagavi.

(By Sri. A.M. Vantamuri, Adv.)

-Vs-

Respondents:

1. Shri Chanbasappa S/o Ishwarappa Gandh,
Age: 56 years, Occ : Business,
R/o. Bazar Road, Hukkeri,
Tal : Hukkeri, Dist : Belagavi.

(Owner of TATA 407 Goods Vehicle bearing
No.KA-49/1810)

2. The Divisional Manager,
The New India Assurance Co. Ltd.,
Represented by the Divisional Manager,
Divisional Office, Club Road, Belagavi,
Tal : Hukkeri, Dist : Belagavi.

(Insurer of TATA 407 Goods Vehicle bearing
No.KA-49/1810
under Policy No.68040431180100003172
valid from 06.10.2018 to 05.10.2019)

(R-1 by Sri. A.M. Hyatagol, Adv.)
(R-2 by Sri. P.B. Upadhye, Adv.)

J U D G M E N T

The petitioner has filed this present petition under section 22 of the Employees Compensation Act 1923 for grant of compensation with interest thereon in view of sustained injury during his employment under respondent No.1.

2. The facts of the petition are as follows:

(a) The petitioner was working under the 1st respondent as a driver. 1st respondent is the owner of TATA 407 Goods vehicle bearing No.KA-49/1810 and undertaken transportation of goods from various places. Whereas the petitioner was working as a driver on the said vehicle and while discharging his duties as per the instruction and directions of the 1st respondent. On 13.02.2019 at about 10:00 hours, the petitioner was stopped the vehicle near the house of respondent No.1 and then he was observed that the rope tied on the tarpaulin over loaded was loose and as per the instruction/directions of the respondent No.1, the petitioner had step up over the vehicle and trying to fit the rope perfectly. At that time, petitioner was slipped from the vehicle and fell down, due to which, petitioner has sustained

grievous injuries. The accident was occurred during course of employment of the petitioner under the respondent no.1.

3. The petitioner has spent sum of Rs.80,000/-towards medical expenses and before the accident the petitioner age was 43 yrs and he was earning sum of Rs.12,000/- per month as salary and daily bhata of Rs.150/- per day. After the accident the petitioner is unable to do any work as earlier due to permanent disability. The respondent No.1 is the owner and 2nd respondent is the insurer of said vehicle, thus they are jointly and severally liable to pay compensation. Hence, the petitioner prays to allow the claim petition.

4. In pursuance of the notices to the respondents, the 1st respondent and 2nd respondent appeared through their counsel and filed separate statement of objections.

5. The facts of the statement of objection of Respondent No.1 as follows :

(a) In the objection of respondent No.1, he admits that he was the owner of vehicle bearing Regd.No.KA-49/1810. Further admits that the petitioner was working under him as a driver of said vehicle. Further admits that the petitioner has sustained injuries during the course of employment and sustained injuries and took the treatment at Dr. Ravi Hattaraki Hospital, Gadhinglaj and denied remaining averments of the petition and contended that respondent No.1 has bear all the expenses of the hospital and his vehicle was

insured with the 2nd respondent and the same was valid at relevant point of time. Further contended that if the petitioner is entitled any compensation, then the same is liable by the 2nd respondent. Hence, 1st respondent prays to dismiss the petition against him.

6. The facts of the objections of 2nd respondent as follows :

(a) In the objection of respondent No.2, he admits that the respondent No.1 was the owner and 2nd respondent was the insured of vehicle bearing Regd.No.KA-49/1810 and denied remaining averments of the petition and contended that the petitioner was not having valid D.L. at relevant point of time. Further admits that so vehicle was not having valid registration and F.C and Permit at relevant point of time. Further contended that the petitioner was not working as driver on the said vehicle under respondent No.1 and there is no existed jural relationship of employer and employee between the respondent and petitioner. Further contended that the petitioner had sustained alleged injuries elsewhere and in order to claim compensation this petition has been filed in collusion with 1st respondent. Hence, prays to dismiss the petition.

7. On the basis above pleadings, the following issues and additional issues were framed in both cases:

ISSUES

1. Whether the petitioner proves that the relationship between himself and respondent No.1 as employee and employer within the meaning of Sec.2(1) of Workmen Compensation Act 1923 ?
2. Whether the petitioner further proves that on 13.02.2019 at 10:00 hours while the petitioner was under the employment he fell down from the vehicle when he trying to fit the rope perfectly and sustained grievous injuries ?
3. Whether the petitioner is entitled for the compensation ? If so, how much and from whom ?
4. What order or Award?

Addl. Issues :

1. Whether the respondent No.2 proves that the driver of Tata 407 Goods Vehicle bearing Reg. No.KA-49/1810 was not holding valid and effective driving license as on the date of accident and violets terms of insurance policy as on the date of accident ?

8. In order to proving the above said issues the petitioner himself has been examined as PW-1 and got marked Ex.P.1 to 14 and on behalf of the petitioner witness by name Dr. Satish D. Patil has been examined as P.W.2. On the other hand, officer of 2nd respondent examined as RW1 and got marked Ex.R1 to R3.

9. Heard arguments of both the sides on merits of the case and perused the record.

10. Now the findings of this Tribunal on the above said issues are answered as follows;

Issue No.1: In the Affirmative
Issue No.2: In the Affirmative
Issue No.3: In the Affirmative
Addl. Issue No.1: In the Negative
Issue No.4 : As per final order
for the following

REASONS

11. ISSUE NO.1 & 2:- The Petitioner has filed the present petitions under Section 22 of E.C.Act claiming the compensation in view of injuries sustained by him during the employment under 1st respondent in road traffic accident which occurred on 13.02.2019 at about 10:00 hours, near the house of respondent No.1 i.e. near Mosali Karanji, Hukkeri, Hukkeri Taluk. Herein there is no dispute as 1st respondent is the owner and 2nd respondent is the insurer of Tractor bearing Regd. No.KA-49/1810 and policy also valid at the time of accident. However copy of policy got marked at Ex.R.2.

12. Further, herein the petitioner has been examined as P.W.1, and he has stated that 1st respondent is the owner of tractor bearing No.KA-49/1810 and he was working as a driver and as per instruction of the 1st respondent on 13.02.2019, when he was trying to fit the rope perfectly, he

fell down from the vehicle and thereby accident has been occurred, due to which, petitioner has sustained grievous injuries. Per contra, respondent No.2 has denied the same and contended that petitioner was not employees under the 1st respondent and there is no jural relationship between the petitioner and the 1st respondent and further contended that the petitioner had sustained alleged injuries elsewhere

13. On looking to above pleading, the question is arises as whether the petitioner was employees under 1st respondent or not at relevant point of time? Further whether he has sustained injuries during course of employment or not? Herein the 2nd respondent admits that the injuries sustained by the petitioner and it is the case of the 2nd respondent that the petitioner was sustained injuries elsewhere. As such, in order to substantiate the case of the petitioner, he/P.W.1 has stated that was working as a driver under the 1st respondent in his vehicle and while so as per the instruction and directions of the 1st respondent, he had step up over the vehicle and trying to fit the rope perfectly. At that time, he was slipped from the vehicle and fell down, due to which, petitioner has sustained grievous injuries. As such, 1st respondent also appeared and filed statement of objection and in the same he admits that the petitioner was working under him as driver of vehicle bearing Reg.No.KA-49/1810. Further admits that while discharging duty has fall down and sustained injuries. But, it is the defence of the 2nd

respondent that the petitioner was sustained injuries elsewhere. But the defence of the 2nd respondent is not acceptable, as because of, firstly he has not stated anythings in the statement of objection as where, when, how and what manner said petitioner was sustained injuries. Secondly R.W.1/respondent No.2 is not an eye witnesses. Further 2nd respondent/R.W.1 has failed to establish that petitioner was sustained injuries elsewhere by way of cogent evidence. Thirdly the medical records like Ex.P.1-Discharge card, Ex.P.8-wound certificate and Ex.P.6-Prescriptions are disclosed that on that day i.e., on 13.2.2019 at about 2.30 p.m. where the petitioner has sustained injuries, he admits in Hattarki hospital Gadhinglaj, Maharashtra and in the said document the place of incident also mentioned. Fourthly on behalf of the petitioner a doctor by name Ravindra Hattaraki has been examined as P.W.2 who is tarterd doctor of petitioner and P.W.2 also stated that the injuries sustained by the petitioner are accidental injuries and the petitioner was admitted on 13.02.2019 in his hospital and he had treated the petitioner. No doubt, P.W.2 subjected to cross examination, but in the same nothing elicited from mouth of him as the petitioner had sustained such injuries elsewhere. In view of the above this court is comes to conclusion that the petitioner has sustained injuries in the said incident during course of employment under the respondent no.1 and held answered **Issue No.1 and 2 in the Affirmative.**

14. ISSUE No.3:- Now as per findings of Issue No.1 and 2 the petitioner was sustained grievous injuries in the incident which occurred during his employment under the 1st respondent, So far, in respect of quantum of compensation is concerned, PW-1 has produced wound certificate at Ex.P.8, Disability Certificate at Ex.P.11, Lab reports at Ex.P9 and 12 and X-ray report at Ex.P14. On looking to the Ex.P-8, 9, 11, 12 and 14 and oral evidence of P.W.1 discloses that, the petitioner has sustained injuries as follows:

*** Right sided tibia fracture**

*** Right sided fibula fracture**

as such discharge card at Ex.P.1 is disclosed that such injury are grievous, as such injuries sustained by petitioner is not specified in any part of Schedule-I, Part-II in Employee's compensation Act 1923 and no notified the disability. such a situation, as per sec. 4(1)(c)(ii) is required to taken into consider the total disablement which to be assessed by the qualified medical practitioner. As such the petitioner has got examined a doctor by name Dr. Ravindra Dundappa Hattaraki as P.W.2, he stated that when he has examined the petitioner, he has sustained above said injuries. Further the PW2 stated that on clinical examination it is certify that GAIT Antalgic, painful, short limb gait measurement right upper limb 70 cms and left leg 73 cms, there is muscle wasting and also there is 3 cms shortening of right leg. Further functional disability observed that

standing for long time not possible and walking long distance is not possible, squatting not possible, sitting cross legged not possible, standing on effected limb not possible, kneeling not possible, walking sloppy surface not possible, climbing not possible, lifting weight not possible and doing labourious work not possible. PW.2 has assessed 35% of permanent physical disability. As such PW.2 is a treated doctor and the disability assessed by him to in not whole body. But, admittedly the petitioner was the driver at the time of accident and also the petitioner was drive by profession. Therefore, such fracture and injuries as stated supra are effected to the avocation of petitioner. Thus, on looking to the fracture sustained by the patient and on considered the medical documentary evidence. The tribunal has assessed the disability at 20% to the functional disability.

15. Now P.W.1 had deposed that he was aged 43 years and he was a driver and was earning Rs.12,000/- per month as salary and Rs.150/- per day as daily bhata. The respondent No.2 has denied age, occupation and income of the deceased. But in the D.L.-Ex.R.3 the date of birth of the petitioner mentioned on 12.04.1969 and the date of accident on 13.2.2019. So on looking to both dates i.e., date of birth of the petitioner and the date of incident. It is disclosed that the age of the petitioner was 50 years at the time of accident and the same is not disputed by both party. Thus this tribunal has come to conclusion that the age of petitioner as

50 years and was working as a driver under the respondent no.1. Accordingly, as per Schedule IV of Employee's compensation Act the Appropriate factor for the age of petitioner is 153.09.

16. Further so far income of petitioner is concerned, there is no material place before court to show the 1st respondent has paying the salary of sum of Rs.12,000/- per month and Rs.150/- per day as daily bhata, however, other side have not dispute the so salary, as such, there is no rebuttal evidence, further admittedly the petitioner was the driver at the time of accident, thus, looking to said fact, this tribunal inclined to assess the income of the petitioner @ Rs.8,000/-p.m., since the accident was occurred in the year 2019. Thus As per Sec.4(b) of Employees Compensation Act, the compensation payable to the petitioner shall be an amount equal to 60% of the monthly wages of the petitioner-employee multiplied by the relevant factor. Monthly wages of the petitioner is assessed @ Rs.8,000/- p.m., which comes 60% is sum of Rs.4,800/- and Relevant factor is 153.09. Hence, compensation payable to the petitioners would be $\text{Rs.4,800} \times 153.09 \times 20\% = \text{Rs.1,46,966.40/-}$ which can be rounded to **Rs.1,50,000/-**.

17. MEDICAL EXPENSES:-The Medical expenses of petitioner is concerned, P.W.1 has stated in his evidence that, he has spent more then Rs.80,000/- towards medical expenses and other incidental charges. But, in order to

establish the same the petitioner has not been produced any material to show he has spent more than Rs.80,000/- towards medical expenses. But P.W.1 has produced medical bills(12 in no's) and got marked at Ex.P.6 in all total sum of Rs.55,222.72. The bills contains every details of the expenses incurred by the claimant are therein. The same are not in dispute and there is no any material on record about contrary to those bills, consequently the same cannot be doubted. Thus, it can be safely taken that the petitioner has spent about Rs.55,222/- towards medical expenses, which can be rounded to **Rs.55,222.72/-**.

18. Thus, petitioner is entitled for just and reasonable **compensation** as follows:

Compensation Amount	Rs.1,50,000/-
Medical expenses of Rs.	Rs. 55,222/-

Total	Rs.2,05,222

with interest @ 12% p.a. from date which after 30 days of the accident.

19. So far liability is concerned, admittedly the respondent No.1 is the owner and 2nd respondent is the insurer of vehicle bearing No.KA-49/1810, admittedly, as the date of accident so vehicle was having valid policy, further the driver of so vehicle was having valid D.L. at relevant point of time and copy of D.L. got marked at Ex.R.3. Thus, 1st respondent is the vicariously liability, 2nd respondent is the

contractually liability to pay the compensation to the petitioner. Hence, 2nd respondent-insurance company is the liable to pay the compensation to the petitioner as calculated above. Under these circumstances this tribunal hold answered Issue No.3 in the Affirmative and Addl Issue in the Negative.

20. ISSUE NO.4 : In view of above discussion and findings, I proceed to pass the following:

ORDER

The petition filed by petitioner U/Sec.22 of the Employees Compensation Act is hereby allowed in part.

The respondent No.2 is liable to pay sum Rs.2,05,222 to the petitioner with interest @ 12% p.a., from the date of Accident till realization.

Further directed to 2nd respondent to deposit said compensation amount within 60 days from this order.

Advocate fee is fixed at Rs.1,000/-.

Draw award accordingly.

(Dictated to the stenographer, transcribed by her on computer, corrected and then pronounced in the open Court by me on this the 14th day of August 2026)

(RAJANNA SANKANNANAVAR)
Senior Civil Judge, Hukkeri.

ANNEXURE**List of witnesses examined on behalf of Petitioner:**

PW-1 : Sri Umesh Dundappa Savalagi
PW-2 : Dr. Ravindra Dundappa Hattaraki

List of documents exhibited on behalf of petitioner:

Ex.P1 : Notarized copy of discharge card
Ex.P2 : Copy of legal notice
Ex.P3 : Postal receipt
Ex.P4 : Postal acknowledgment
Ex.P5 : Reply to legal notice
Ex.P6 : Medical bills (12 in Nos.)
Ex.P7 : Medical prescriptions (20 in Nos.)
Ex.P8 : Injury certificate
Ex.P9 : Lab report
Ex.P10 : Discharge card
Ex.P11 : Disability certificate
Ex.P12 : Lab report
Ex.P13 : OPD cards (4 in Nos.)
Ex.P14 : X-ray films (5 in Nos.)

List of witnesses for Respondents:

RW.1 : Sri Gurunath Revanasiddappa Kusali

List of Documents for Respondents:

Ex.D1 : Authorization letter
Ex.D2 : Insurance policy
Ex.D3 : Copy of driving licence

(RAJANNA SANKANNANAVAR)
Senior Civil Judge, Hukkeri.

