

KADG310006072023



Presented on : 02-09-2023
Registered on : 02-09-2023
Decided on : 10-04-2026
Duration : 2 years, 7 months, 8 days

**BEFORE THE SENIOR CIVIL JUDGE AND
COMMISSIONER FOR EMPLOYEES COMPENSATION,
HARIHAR**

**PRESENT: Smt. Padmashri A. Munnoli,
B.A.L, LL.B.**

Senior Civil Judge and Commissioner
for Employees Compensation, Harihar.

DATED THIS THE 10th DAY OF APRIL, 2026

E.C.A No. 3/2023

PETITIONER:

Anjanappa, S/o Kariyappa, Aged about 30 years, R/o Kallaganguru village, Abbalagere Post, Shivamogga taluk and District, and at present R/o Hanagawadi village, Harihar taluk, Davangere District.

(By Sri. M. Nagendrappa, Advocate)

-Versus -

RESPONDENTS:

1. Sreedhara, S/o Rangaswamy, Aged about 49 years, Businessman,
2. Suma N., W/o Sridhara R.,
Aged about 35 years, Proprietor of Srivary
Hallo Bricks and Tiles Factory,

Both are residing at Near Milk Dairy,
Mylarappattana Road, 4th Main, T.B.
Extension, Nagamangala, Mandya District.

(R. 1 and 2 by Sri. N. Parashuramappa, Advocate)

=====

J U D G E M E N T

The present petition is filed by the petitioner U/Sec.22 of the Employees Compensation Act, seeking compensation with interest at the rate of 18% p.a. in respect of injuries suffered by him while under the employment of respondent No.1 and 2 as a coolie.

2. Brief facts of the case are as under:-

The petitioner avers that respondents are running a factory under the name and style of "Srivary Hallow Bricks and Tiles", at Banavara Railway Bridge of Javagal Road, Arasikere. That the said unit is in the name of respondent No.2. That petitioner and his wife are now residing at Hanagawadi village. That petitioner with his wife was doing coolie work at cement tiles manufacturing unit near Turuvekere. Respondent No.1 approached the petitioner and offered them to come to their factory and work. Accordingly, petitioner and others joined the factory of respondents on 05.01.2023. That on 09.02.2023 at around

12.00 p.m. when petitioner was working in the concrete machine, while operating the said machine, the right hand fingers of the petitioner were damaged. That there was a crush injury. His middle finger was completely injured. That petitioner was first taken to the Government hospital, Arasikere and then to the District Hospital, Hassan. From there petitioner went to Sanjaygandhi Hospital, Bangalore, for higher treatment. That respondents did not take precautionary measures while assigning the work to the petitioner. He was not provided with safety equipments. That a complaint is lodged with Banavara police in Cr. No. 18/2023. The chargesheet is also filed and the respondents in the criminal case admitted the guilt and paid the fine. That petitioner was earning Rs.1,200/- per day. That now petitioner has suffered a permanent disability. That Rs.2,00,000/- is spent towards his medical treatment. That respondent No.1 and 2 are jointly and severally liable to pay the compensation.

3. In pursuance of the petition notices issued, respondent No.1 and 2 appeared through a counsel. They have denied the entire petition averments. NO specific defense is taken up.

4. Based on the above pleadings, the following issues were framed :

1. Whether the petitioner proves that, he sustained grievous injuries on 09.02.2023 at around 12.00 p.m. during the course of employment as a worker with respondents in their cement brick factory?
2. Whether the petitioner is entitled for compensation? If so to what extent?
3. What order or award?

5. Thereafter, in order to prove his case, petitioner got himself examined as PW.1. Ex.P.1 to 13 are marked for the petitioner. No evidence lead by respondents side.]

6. Heard the arguments of the learned counsel for the petitioner.

7. My answers to the above issues are as follows:

Issue No.1: In the Affirmative;

Issue No.2: In the Affirmative;

Issue No.3: As per final order
for the following.....

: R E A S O N S :

8. Issue No.1:- The petitioner in order to prove that he sustained injuries during the course of employment with respondent No.1 and 2 while working in their unit, got himself examined as PW.1. Ex.P.1 to 13 are marked for him. No evidence lead by the respondent's side.

9. PW.1 in his examination-in-chief affidavit has reiterated the contents of the petition averments. In the cross-examination PW.1 states that he was working in the factory of the respondent since for about 1 ½ months prior to the accident. That he was having a daily wage of Rs.1,200/-. He states that no safety equipments were given by the respondents. A suggestion was put to PW.1 that, the machines at the factory where he had gone to work were all new and same is admitted by him. A suggestion was put that the machine was off when he was cleaning the said machine but, states that as rain water entered the machine, the machine started suddenly.

10. No evidence lead by respondent's side.

11. Learned counsel for the petitioner would argue that the petitioner has established that he was under the employment under respondents and that the injuries

suffered were during the course of employment and hence, it was prayed that the petition be allowed.

12. No arguments advanced by the respondent side.

13. The petitioner states that he was under the employment of respondent No.1 and 2 at the brick and tiles manufacturing unit and on 09.12.2023, while working in the concrete machine, the right hand fingers of the petitioner were damaged. The wife of petitioner by name Smt. Nagamma is the complainant of Cr. No. 18/2023. Ex.P.1 is the copy of FIR registered against respondent No.1. Ex.P.2 is the copy of the complaint wherein it is stated that petitioner and his wife were working at Turuvekere and at that time respondent No.1 approached them stating that he is starting a new factory at Banavara of Arasikere and offered them a employment. Therefore, petitioner and his wife on 05.01.2023 along with their other relatives started working at the factory of respondent No.1. That on 09.02.2023 at around 12 p.m. when petitioner was working in the concrete machine the right hand fingers got struck in the said concrete machine and the middle finger was amputated. Ex.P.3 is the certified copy of the ordersheet in CC No. 742/2023, wherein both the present respondents have pleaded guilty and paid the fine. Ex.P.5 is the copy of chargesheet. Ex.P.7 is the wound certificate of the

petitioner in Ex.P.7 the history of injuries is mentioned as accidental injury. Along with the chargesheet, the petitioner has produced, a copy of the registration certificate which is standing in the name of respondent No.2. In the chargesheet both respondent No.1 and 2 are stated to be running the bricks and tiles factory. Therefore, from the material on record the petitioner has established that he was under the employment of respondent No.1 and 2 and suffered the injuries during the course of employment with respondent No.1 and 2. Accordingly, for these reasons I answer **issue No.1 in the Affirmative.**

14. Issue No.2:- The petitioner succeeded in proving that he sustained grievous injuries in the course of employment with respondent No.1 and 2. Petitioner contended that he has sustained a permanent disability. The wound certificate at Ex.P.7 discloses that there is a crush injury the right middle finger. The petitioner though has not lead the evidence of the doctor to show the nature of injury suffered and what is the disability but, however at the same time it has to be appreciated that the respondent No.1 and 2 have not at all contested the petition. Ex.P.9 is the discharge summary of Sanjay Gandhi hospital, Bengaluru, which discloses about the crush injury suffered to the right 3rd finger proximal part. Further there is

mention about amputation of the right middle finger at the level of MCP joint. Therefore, Ex.P.7, 9 and 10 establish that the petitioner sustained permanent partial disability. The petitioner avers that he was earning Rs.1,200/- per day by preparing the bricks. But, however, there are no materials placed on record to substantiate the same. Even respondent No.1 and 2 in the statement of objections filed have denied that Rs.1,200/- was the daily wage fixed. Therefore, the petitioner has not placed on record any material to show what was the actual wage paid per day. Therefore, in my opinion when petitioner has failed to produce any material about the minimum wages that was prevailing during the year 2023, in my opinion the chart prepared by the KSLSA which is also on the basis of the minimum wages can be considered and in my opinion the monthly income can be taken up at Rs.16,000/-.

15. Sec.4 1(c) of the Act deal with the amount of compensation to be paid where the permanent partial disability results from the injury. Sec.41(c) (i) says that in case of any injury specified in part II of the First schedule, such percentage of compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of loss of earning capacity caused by that injury, and (ii) in the case of injury

not specified in schedule I, such percentage of compensation payable in the case of permanent total disability as is proportionate the loss of earning capacity (as assessed by the qualified medical practitioner) permanently caused by the injury.

16. Thus for the fixing of compensation in case of permanent partial disability first it has to be seen whether the caused disability is specified in part II of schedule I. At Sl. No.33 in schedule II for loss of one phalanx, the percentage of loss earning capacity is assessed at 7%.

17. Sec.4(b) of the Act says that by the permanent total disability results from the injury, the amount equal to 60% of monthly wage of injured employed by the relevant fact. Here the wage of the petitioner Rs.16,000/- per month. The age of the petitioner is shown as 38 years in Ex.P.9, therefore the same can be considered as the age of the petitioner in the absence of contra evidence. For the said age group the relevant factor is 189.56. If the salary of the petitioner taken at 60% then salary comes at Rs. 9,600/- (16,000 X 60%). The loss of earning capacity is multiplied by the income then loss of income multiplied by the relevant factor comes at Rs.1,27,384.32/-,(9,600 x 189.56 x 7%) rounded at Rs.1,27,384/-. Ex.P.13 are the medical bills and it appears petitioner has spent Rs.10,699/- for his

treatment. Thus I hold that the petitioner is entitled for compensation of Rs. 1,38,083/- (1,27,384/- + 10,699/-).

18. The next aspect to be considered is the interest. As per Sec.4 of the Employees Act the petitioners are entitled for 12% of interest. The Hon'ble Supreme Court in the case of Shoba and others Vs. The Chairman, Vithal Rao Shinde Sahakari Sahakar Karkhana Ltd., and others, in Civil Appeal No. 1860/2022, dated: 11.03.2022, has held that under Employees Compensation Act, the interest payable is 12% p.a. from the date of accident. Thus I hold that petitioner is entitled for the interest at the rate of 12% per annum as claimed in the petition. Accordingly, for these reasons I answer **issue No.2 in the partly Affirmative.**

19. Issue No.3:- For findings given on the above said issues and reasons discussed therein I proceed to pass the following:-

ORDER

The petition filed by the petitioner U/sec.22 of the Employees Compensation Act, 1923 is allowed in part with cost.

The petitioner is entitled for Rs.1,38,083/- (Rupees One Lakhs Thirty

Eight Thousand and Eighty Three Only) with interest at the rate of 12% p.a. from the accident i.e., from 09.02.2023 till realization.

Respondents No.1 and 2 are jointly and severally liable to pay compensation amount.

Respondents No.1 and 2 directed to deposit award amount within two months from the date of award.

On deposit of the award amount, entire compensation amount is ordered to be released in favour of the petitioner by creating a recipient I.D. in Khajan-2 after due verification and on the petitioner furnishing necessary documents about the bank particulars and his identity.

Advocate's fees is fixed at Rs.500/-.

Draw award accordingly.

(Directly dictated to the stenographer on computer and typed by him, script corrected and signed by me, then pronounced in the open court on this the 10th day of April 2026).

(Smt. Padmashri A. Munnoli)
Sr. Civil Judge and Commissioner for
Employees Compensation, Harihar.

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

P.W.1 : Anjinappa

**List of exhibited documents marked on behalf of
petitioner/s.**

Ex.P.1 : C/c of FIR
Ex.P.2 : C/c of FIS
Ex.P.3 : C/c of proceedings in CC NO. 742/2023
Ex.P.4 : C/C of charge
Ex.P.5 : C/c of chargesheet
Ex.P.6 : C/c of Crime details form
Ex.P.7 : C/c of wound certificate of Anjanappa
Ex.P.8 : C/c of witness statement of Anjanappa
Ex.P.9 : Discharge summary
Ex.P.10 : Out patient record
Ex.P.11 : Prescriptions (2 Nos.)
Ex.P.12 : X-rays (4 nos.)
Ex.P.13 : Medical bills (6 Nos.)

List of witnesses examined on behalf of**Respondent/s:**

- Nil-

List of documents marked on behalf of defendants.

- Nil-

(Smt. Padmashri A. Munnoli)
Sr. Civil Judge and Commisioner for
Empoloyees Compensation, Harihar.