IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 06TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.100731 OF 2016
C/W
MFA CROB.NO.100084 OF 2018

IN MFA NO.100731/2016:
BETWEEN:

NATIONAL INSURANCE CO. LTD.,
THROUGH ITS DIVISIONAL OFFICE,
RAMDEV GALLI, BELAGAVI, DIST: BELAGAVI.
REPRESENTED BY MANAGER,
NATIONAL INSURANCE CO. LTD.,
REGIONAL OFFICE, 2ND FLOOR, ARIHANT PLAZA,
KESUGAL ROAD, KESHWAPUR, HUBBALLI.

...APPELLANT

(BY SRI. M.K. SOUDAGAR, ADVOCATE)

AND:

1. SMT. KASTURI
W/O LATE MARUTI GOUDADI,
AGE: 42 YEARS, OCC: HOUSEHOLD WORK,
R/O: MALLAPUR VILLAGE (PG),
TAL: GOKAK, DIST: BELAGAVI.

2. SHRI. UMESH FAKIRAPPA HOSAWAL,
AGE: MAJOR, OCC: BUSINESS,
R/O: TALLUR VILLAGE,
TAL: SAUNDATTI, DIST: BELAGAVI.

...RESPONDENTS

(BY SRI. YASH NADAKARNI, ADVOCATE FOR
SRI. VITTHAL S. TELI, ADVOCATE FOR C/R1;
SRI. K.H. BAGI, ADVOCATE FOR R2)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 30(1) OF THE EMPLOYEES COMPENSATION ACT, PRAYING TO CALL FOR RECORDS IN CASE ECA NO.1/2014, ON THE FILE OF THE MEMBER ADDL. M.A.C.T AND COMMISSIONER FOR WORKMEN'S COMPENSATION HUKKERI AND SET ASIDE THE JUDGMENT AND ORDER DATED 06.01.2016 BY ALLOWING THIS APPEAL WITH COST AND GRANT SUCH OTHER AND/OR FURTHER RELIEF'S AS THIS

HON'BLE COURT DEEMS FIT TO GRANT IN THE FACTS AND CIRCUMSTANCES OF THE CASE IN THE INTEREST OF JUSTICE AND EQUITY.

IN MFA CROB NO.100084/2018:
BETWEEN:

KASTURI W/O LATE MARUTI GOUDADI
AGE: 44 YEARS, OCC: HOUSEHOLD WORK,
R/O: MALLAPUR(PG), TAL: GOKAK,
DSIT: BELAGAVI 591306.

…CROSS OBJECTORS

(BY SRI. YASH NADAKARNI, ADVOCATE FOR
SRI. VITTHAL S. TELI, ADVOCATE)

AND:

1. UMESH FAKIRAPPA HOSAWAL
AGE: MAJOR, OCC: BUSINESS,
R/O: TALLUR VILLAGE,
TAL: SAUNDATTI, BELAGAVI 591117.

2. THE NATIONAL INSURANCE CO. LTD.,
THROUGH ITS DIVISIONAL OFFICE,
RAMADEV GALLI, BELAGAVI 590001.

…RESPONDENTS

(BY SRI. K.H. BAGI, ADVOCATE FOR R1;
SRI. M.K. SOUDAGAR, ADVOCATE FOR R2)

THIS MFA CROSS OBJECTION IS FILED UNDER ORDER 41 RULE 22 CODE OF CIVIL PROCEDURE 1908, PRAYING THAT THE JUDGMENT [AWARD] DATED 06.01.2016 IN ECA NO.01/2014 PASSED BY THE ADDL. MACT HUKKERI AND COMMISSIONER FOR WORKMEN COMPENSATION, HUKKERI IN AWARDING COMPENSATION OF RS.5,40,000/- WITH 12% FROM THE 30 DAY FROM THE DATE OF ACCIDENT AND MAY BE KINDLY MODIFIED BY ENHANCED AS PRAYED WITH 18% INTEREST, IN THE INTEREST JUSTICE AND EQUITY.

THE MFA AND THE MFA CROSS OBJECTION HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 30.01.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

1. This appeal and cross-objection arise out of the judgment and award dated 06.01.2016 passed by the Member, Addl. M.A.C.T. and Commissioner for Employees' Compensation, Hukkeri, in ECA No.1/2014, whereby compensation of Rs.5,40,000/- with interest at 12% per annum from one month after the date of accident was awarded in favour of the claimants.

2. The facts leading to the filing of the claim petition are that the deceased Satish Maruti Goudadi, aged about 28 years, was employed as a driver under respondent No.1, the owner of Maruti Swift car bearing registration No. KA-34/M-4244. The said vehicle was admittedly insured with the appellant-Insurance Company and the insurance policy was in force on the date of accident. On the night intervening 26/27.02.2013, while the deceased was driving the insured vehicle in the course of employment and returning from Belagavi towards Ghataprabha, near Rakshi village, the car met with an accident resulting in fatal injuries to the driver, who died on the spot.

3. The claimants, being the dependent legal representatives of the deceased, filed a petition under Section 22

of the Employees' Compensation Act, 1923, contending that the accident occurred during and in the course of employment and claiming compensation from the employer and insurer. The Commissioner, on appreciation of the oral and documentary evidence on record, held that the accident occurred during and in the course of employment, assessed the monthly wages of the deceased at Rs.5,000/-, applied the relevant factor applicable to the age of the deceased and awarded compensation of Rs.5,30,000/- towards loss of dependency and Rs.10,000/- towards funeral expenses, aggregating to Rs.5,40,000/- with interest at 12% per annum payable from one month after the date of accident.

4. Being aggrieved by the said judgment and award, the Insurance Company has preferred the present appeal contending that the Commissioner committed an error in entertaining the claim petition and awarding compensation, as the deceased himself was responsible for the accident and a charge-sheet was filed against him for rash and negligent driving.

5. It is further contended by the Insurance Company that the accident did not arise out of employment, that the deceased was using the insured vehicle for personal purposes,

that the Commissioner failed to consider the documents produced at Exs.R3 to R6, that the monthly wages were assessed without any documentary evidence and that the award of interest from one month after the date of accident is contrary to law.

6. The claimants have filed a cross-objection seeking enhancement of compensation contending that the deceased was earning higher wages along with batta, that the Commissioner erred in fixing the income at Rs.5,000/- per month, that the statutory notification issued by the Central Government prescribing wage ceiling was not properly applied and that the compensation awarded is inadequate.

7. I have carefully considered the submissions made on both sides and perused the records placed before this Court.

8. The relationship of employer and employee between the deceased and respondent No.1 is not in dispute. It is also not disputed that the insurance policy covering the vehicle was valid on the date of accident and that the deceased possessed a valid and effective driving licence.

9. The FIR, charge-sheet, post-mortem report and other contemporaneous documents clearly establish that the accident occurred while the deceased was driving the insured vehicle. The finding recorded by the Commissioner that the accident occurred during and in the course of employment is based on evidence on record and does not call for interference.

10. The contention of the Insurance Company that the deceased was responsible for the accident does not absolve the employer or insurer from liability under the Employees' Compensation Act, as the Act proceeds on the principle of statutory liability and not on fault or negligence.

11. The plea that the deceased was using the vehicle for personal work at the time of accident is not supported by cogent and acceptable evidence. The documents relied upon by the Insurance Company are not sufficient to rebut the finding recorded by the Commissioner regarding the nature of employment and the circumstances under which the accident occurred.

12. With regard to the assessment of wages, the Central Government Notification S.O.1258(E) dated 31.05.2010 issued

under Section 4(1B) of the Employees' Compensation Act prescribes the wage ceiling for the purpose of computation of compensation.

13. Having regard to the nature of employment of the deceased as a driver, the prevailing wages and the statutory framework, the monthly income of the deceased is justly assessable at Rs.6,000/- per month and the Commissioner erred in assessing the income at Rs.5,000/- per month.

14. The age of the deceased being 28 years, the relevant factor applicable as per Schedule IV is 211.79. Fifty percent of the monthly wages of Rs.6,000/- comes to Rs.3,000/- and on applying the statutory factor, the compensation payable towards loss of dependency works out to Rs.6,35,370/-. Thus, the total compensation payable comes to Rs.6,35,370/-.

15. As regards interest, Section 4A(3) of the Employees' Compensation Act mandates payment of interest if compensation is not deposited within one month from the date of accident. Learned counsel for the Insurance Company has submitted that the amount awarded by the Commissioner, along with interest at 12% per annum from one month after the date of accident till

the date of deposit, has already been paid. Therefore, the Insurance Company has already complied with the original award. The enhancement now directed on account of cross-objection shall be paid after adjusting the amount already deposited.

16. For the aforesaid reasons, the appeal filed by the Insurance Company is devoid of merit and is liable to be dismissed, whereas the cross-objection filed by the claimants deserves to be allowed in part. Accordingly, this Court proceeds to pass the following:

<u>ORDER</u>

(i) The appeal filed by the Insurance Company is dismissed.

(ii) The cross-objection filed by the claimants is allowed in part and the compensation awarded by the Commissioner is enhanced from Rs.5,40,000/- to Rs.6,35,370/-. The enhanced amount, after adjusting the amount already deposited by the Insurance Company with interest at 12% per annum from one month after the date of accident till the date of deposit, shall be paid to the claimants.

(iii) The Insurance Company shall deposit the enhanced compensation within eight weeks from the date of receipt of this judgment.

(iv) On deposit of the compensation amount, the release of the amount to the claimants and deposit of the balance amount in fixed deposit shall be in terms of the directions issued by the Commissioner for Workmen's Compensation in the award dated 06.01.2016

(v) There shall be no order as to costs.

Sd/-
(DR. K.MANMADHA RAO)
JUDGE

Rsh, CT:VP