



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE E.S.INDIRESH

MISCL. FIRST APPEAL NO. 200600 OF 2020 (ECA)

C/W

MFA CROSS OBJ NO. 200073 OF 2021

IN MFA No. 200600/2020

BETWEEN:

RELIANCE GENERAL INSURANCE CO. LTD.,
REGD. OFFICE (RELIANCE CENTRE 19
WALCHAND HIRACHAND MARG,
BALLAD ESTATE, MUMBAI-400031,
THROUGH ITS 2 BRANCH MANAGER,
POLICE SERVICING OFFICE NO. 48TH BLOCK,
ASIAN PLAZA COMPLEX, STATION MAIN ROAD,
NEAR S.V. PATEL CHOUK, KALABURAGI,
NOW REPRESENTED AUTHORISED SIGNATORY.



...APPELLANT

(BY SMT. PREETI PATIL MELKUNDI, ADVOCATE)

AND:

1. SHABANA BEGUM
W/O LATE MD. HAJI @ HAJIPASHA,
AGE: 36 YEARS, OCC: HOUSEHOLD,
NEAR OLD S.B.H STATION ROAD, SHAHABAD,
TQ. CHITTAPUR, DIST. KALABURAGI-585 101.



NC: 2026:KHC-K:1797
MFA No. 200600 of 2020
C/W MFA.CROB No. 200073 of 2021

2. NAWAZ S/O LATE MD. HAJI @ HAJIPASHA,
AGE: 12 YEARS, MINOR, U/G OF HIS NATURAL
MOTHER-R1.
3. AWAIS S/O LATE MD. HAJI @ HAJIPASHA,
AGE: 10 YEARS, MINOR, U/G OF HIS NATURAL
MOTHER-R1.
4. FAIZ S/O LATE MD. HAJI @ HAJIPASHA,
AGE: 08 YEARS, MINOR, U/G OF HIS NATURAL
MOTHER-R1.
5. SHAINAZ BEGUM
W/O LATE ABDUL KAREEM SIDDIQUE,
AGE: 76 YEARS, OCC: HOUSEHOLD,
NEAR OLD S.B.H STATION ROAD, SHAHBAD,
TQ. CHITTAPUR, DIST. KALABURAGI-585101.
6. MD. PASHA SAJJAD S/O ABDUL KAREEM,
AGE: 45 YEARS, OCC: BUSINESS,
NEAR OLD S.B.H STATION ROAD, SHAHBAD,
TQ. CHITTAPUR, DIST. KALABURAGI-585101.

...RESPONDENTS

(BY SRI MASHAK PATEL, ADVOCATE FOR R1 TO R5;
R2 TO R4 ARE MINORS REPRESENTED BY R1;
V/O DTD.13.10.2022 NOTICE TO R6 IS HELD SUFFICIENT)

THIS MFA IS FILED U/S. 30(1) OF EC ACT, PRAYING TO
ALLOW THIS APPAEAL AND SET ASIDE THE IMPUGNED
JUDGMENT AND AWARD DATED 23.10.2018 THE
COMMISSIONER FOR EMPLOYEES COMPENSATION AND III
ADDL. SENIOR CIVIL JUDGE AT KALABURAGI ALLOWED THE
APPLICATION FOR COMPENSATION, AWARDING A SUM OF
RS.5,76,400/- WITH INTEREST AT 12% PER ANNUM FROM
03.09.2012 TILL REALIZATION.



NC: 2026:KHC-K:1797
MFA No. 200600 of 2020
C/W MFA.CROB No. 200073 of 2021

IN MFA.CROB NO. 200073/2021

BETWEEN:

1. SHABANA BEGUM
W/O LATE MD HAJI @ HAJIPASHA,
AGE: 36 YEARS, OCC: HOUSEHOLD.
2. NAWAZ S/O LATE MD HAJI @ HAJIPASHA,
AGE: 12 YEARS, MINOR U/G MOTHER PETITIONER-1.
3. AWAIS S/O LATE. MD HAJI @ HAJIPASHA,
AGE: 10 YEARS, MINOR U/G MOTHER PETITIONER-1.
4. FAIZ S/O LATE MD HAJI @ HAJIPASHA,
AGE: 08 YEARS, MINOR U/G MOTHER PETITIONER-1.
5. SHAINAZ BEGUM
W/O LATE. ABDUL KAREEM SIDDIQUE,
AGE: 76 YEARS, OCC: HOUSEHOLD,

ALL ARE R/O NEAR SBH STATION ROAD, SHAHABAD,
TQ. CHITTAPUR, DIST. KALABURAGI-585229.

...CROSS OBJECTORS

(BY SRI. MASHAK PATEL, ADVOCATE)

AND:

1. MD PASHA SAJJAD S/O ABDUL KAREEM,
AGE: 45 YEARS, OCC: BUSINESS,
R/O NEAR SBH STATION ROAD, SHAHABAD-585228,
TQ. CHITTAPUR, DIST. KALABURAGI.
2. RELIANCE GENERAL INSURANCE COMPANY LTD.,
REGISTERED OFFICE,
(RELAANCE CENTRE, 19 WALCHAND
HIRACHAND MARG, BALLAD ESTATE,
MUMBAI-400031),



NC: 2026:KHC-K:1797
MFA No. 200600 of 2020
C/W MFA.CROB No. 200073 of 2021

THROUGH ITS BRANCH MANAGER,
POLICY SERVICING OFFICE, NO. 48TH,
BLOCK ASIAN PLAZA, COMPLEX STATION,
MAIN ROAD,
NEAR SV PATEL CHOUK,
KALABURAGI-585102.

...RESPONDENTS

(BY SMT. PREETI PATIL MELKUNDI, ADVOCATE FOR R2;
V/O DTD.16.08.2023 NOTICE TO R1 IS DISPENSED WITH)

THIS MFA CROB. IS FILED U/S. 41 RULE 22 OF CPC,
ALLOW THE ABOVE CROSS OBJECTION AND
CONSEQUENTLY AND TO MODIFY THE JUDGMENT AND
AWARD DATED 23.10.2018 PASSED BY III ADDL. SENIOR
CIVIL JUDGE AND COMMISSIONER FOR EMPLOYEES
COMPENSATION, AT KALABURAGI IN ECA NO.216/2014.
AND CONSEQUENTLY BE PLEASED TO ENHANCE THE
COMPENSATION AMOUNT AS PRAYED.

THESE APPEALS, COMING ON FOR FINAL HEARING, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

ORAL JUDGMENT

The appeal in MFA No. 200600 of 2020 is filed by
the Insurance Company and MFA Cross Objections No.
200073 of 2021 are directed against the judgment
and award dated 23.10.2018 passed in ECA No. 216 of



2014 by the III Additional Senior Civil Judge and Commissioner for Employees' Compensation, Kalaburagi (for short, 'the learned Commissioner'), awarding compensation to the claimants.

2. The Insurance Company has challenged the liability in MFA No. 200600 of 2020 and the claimant has sought enhancement of compensation in MFA Crob. No. 200073 of 2021.

3. For the sake of convenience, the parties in these appeals shall be referred to according to their status and ranking before the Tribunal.

4. The relevant facts for adjudication of the case are that the claimants preferred ECA No. 216 of 2014 contending that the husband of claimant No.1, Mahammed Hazi @ Hazipasha, was working as a driver with the respondent No.1. On 03.08.2012, while driving the truck bearing registration No. KA-32/B-



1511, he met with a road traffic accident due to bursting of a tyre and died in the said accident.

5. The claim petition was contested by the respondents. The owner of the vehicle, though appeared before the learned Commissioner, did not contest the claim petition on merits. The learned Commissioner, by judgment and award dated 23.10.2018, allowed the claim petition and awarded compensation of Rs. 5,76,400/- with admissible interest.

6. This Court, vide order dated 09.02.2024, formulated the following substantial question of law:

IN MFA.NO.200600/2020 :-

- I. *Whether the Court below acted contrary to law in saddling liability upon the appellant insurance company.?*



- II. *Whether the Court below had appreciated the evidence on record in accordance with law and in proper perspective.?*
- III. *Whether the CEC, Kalaburgi on the basis of self serving statements of the respondents No.1 to 5 herein, filed with self contradictions and not properly discharged the burden of proof, before saddling the liability upon the appellant insurer.?*
- IV. *Whether the CEC at Kalaburagi could merely on assumption and presumption of employment of deceased with respondent No.1 to have arisen out of and in the course employment and without there being any positive evidence lead by the petitioners to saddle the liability upon the appellant insurer.?*
- V. *Whether the Commissioner for Workmen's Compensation was justified in making the appellant liable, as there is clear violation of terms and conditions of the policy and employment relationship between the deceased and in violation of provisions of Section 3 of Workmen's Compensation Act and not due to the accident arising out of and in the course of employment.?*
- VI. *Whether the Commissioner for Workmen's Compensation was justified adopting the wages of the deceased b considering him as employee of respondent No.6 herein at Rs.6,000/- which is against the provisions of Section 5 of W.C. Act.?*



VII. *Whether the Order of the Court below is liable to be modified or rejected against the Appellant Insurance Company.?*

IN MFA.CROB.NO.200073/2021 :-

I. *Whether the commissioner is justified in awarding the compensation without looking into future prospects of the deceased Md. Haji @ Hajipasha.?*

II. *Whether the compensation awarded is jus, fair and reasonable one, on the death of Md. Haji @ Hajjipasha, as driver, only earning member of appellant's family.?*

7. I have heard Smt. Preeti Patil Melkundi, learned counsel appearing for the Insurance company, and Sri. Mushak Patel, learned counsel appearing for the claimants. I have perused the records.

8. Smt. Preeti Patil Melkundi, learned counsel appearing for the Insurance Company, contended that the finding recorded by the learned Commissioner regarding the relationship between the deceased and respondent No.1 is incorrect, as the respondent No.1,



though had appeared, did not contest the matter on merits. It is further contended that the vehicle in question was used on the road without a valid permit and therefore, the Insurance Company ought not to have been saddled with liability.

9. Per contra, the learned counsel appearing for the claimants sought for enhancement of compensation.

10. In the light of the arguments advanced by the learned counsel appearing for the parties, there is no dispute with regard to the occurrence of the road traffic accident on 03.08.2012, as a result of which the husband of claimant No.1 died. Respondent No.1 (employer) entered appearance but did not contest the matter on merits.

11. Having regard to the arguments advanced by the learned counsel for the Insurance Company and following the declaration of law made by the Hon'ble



Supreme Court in ***Shivaraj v. Rajendra & Another*** (Civil Appeal Nos. 8278–8279/2018, disposed of on 05.09.2018) and in ***Shivawwa and Another v. The Branch Manager, National Insurance Company Limited***, reported in ***AIR 2018 SC 1640***, the Insurance Company is directed to pay the compensation to the claimants and thereafter, recover the same from the owner of the vehicle in question.

12. Insofar as the quantum of compensation is concerned, it is the case of the claimants that the deceased was earning Rs.8,000/- per month as salary. Considering that the deceased was aged about 37 years at the time of the accident, the relevant factor applicable is 192.14 as per structured formula. Accordingly, the claimants are entitled to compensation of Rs.7,68,560/- (8,000 × 50% × 192.14).



13. Taking into consideration the findings recorded by the learned Commissioner, I am of the opinion that the substantial question of law is answered accordingly. Hence, I pass the following:

ORDER

- i. MFA No. 200600 of 2020 and the MFA. cross-objection No. 200073 of 2021 are ***allowed in part.***
- ii. The judgment and award dated 23.10.2018 passed in ECA No. 216 of 2014 on the file of the III Additional Senior Civil Judge and Commissioner for Employees' Compensation, Kalaburagi, is hereby modified to the extent indicated above.
- iii. The claimants are entitled to total compensation of Rs. 7,68,560/- with interest



at 12% per annum from the date of accident
till realization.

iv. The appellant–Insurance Company is
directed to pay the compensation to the
claimants within a period of six weeks from
the date of receipt of a certified copy of this
order and thereafter, recover the same from
the owner of the vehicle in accordance with
law.

Sd/-
(E.S.INDIRESH)
JUDGE

SB
List No.: 1 Sl No.: 41
CT:PK