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**(2016) 03 KAR CK 0010**  
**In the Karnataka High Court**  
**Case No : M.F.A. No. 466 of 2011 (WC).**

Nagesh

APPELLANT

Vs

Ranganath Chettiyar and another

RESPONDENT

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**Date of Decision :** 01-03-2016

**Acts Referred:**

Employees Compensation Act, 1923 — Section 3, 4

**Citation :** (2016) AAC 1065

**Hon'ble Judges :** S. N. Satyanarayana, J.

**Bench :** Single Bench

**Advocate :** Vinod Gowda, Vighneshwar S. Shastri, Advocates, for the Appellant;  
A. N. Krishnaswamy, Advocate and S. T. Rajashekara, Advocate, for the  
Respondent

**Final Decision :** Partly Allowed

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## Judgement

S. N. Satyanarayana, J. - Claimant in NF No. 35/2007 on the file of the Commissioner for Workmen's Compensation, Sub-Division -II, Chikmagalur, has come up in this appeal seeking enhancement of compensation for the injuries suffered in an accident on 19-2-2007, said to have caused in the course of his employment.

2. Brief facts leading to this appeal are as under :-

The appellant herein is an employee under the first respondent, who is the owner of Siyaram Estate of Baggasagodu village, Mudigere Taluk, Chikmagalur District. On 19-2-2007, when claimant was assigned to trim the shading trees in the coffee Estate, he slipped and fell down from 20 feet height and suffered injuries to his back resulting in paraplegia. Hence, claim petition was filed<sup>^</sup> by him before the Commissioner for " Workmen's Compensation seeking compensation for the aforesaid injuries. On the basis of the material on record, the Commissioner proceeded to take the daily wages of claimant at Rs. 71.60 and considering his age at the relevant time as 32 and accepting the disability at

80%, awarded compensation in a sum of Rs. 2,44,620/-. Being aggrieved by the same the claimant has come up in this appeal contending that the wages taken at Rs. 71.60 is on lower side and that, Rs. 71.60 is the basic wage to which other benefits i.e., bonus, provident fund, festival allowance and other allowances would be added, which would constitute roughly around 25% to 30% and the same is not taken into consideration by the Commissioner while calculating the compensation. Further it is stated by the appellant that when he has suffered paraplegia, taking his disability at 80% is inappropriate and the same should have been taken at 100%.

3. Though this appeal is at the stage of admission, since the lower Court records are received, at the request of the learned counsel appearing for the parties, it is taken up for final disposal. On going through the material on record, this Court holds that the following substantial questions of law arise for consideration in this appeal :

1. Whether the Commissioner for Workmen's Compensation was justified in taking the disability at 80%, when admittedly claimant has suffered paraplegia below the waist?

2. Whether the Commissioner for Workmen's Compensation was justified in taking the income of claimant at Rs. 71.60 for the purpose of calculating the compensation?

4. Heard the learned counsel for the appellant as well as the contesting respondent. Perused the judgment impugned with reference to the pleadings and evidence available on record. On going through the same, it is seen that the first substantial question of law is required to be answered in the negative holding that the claimant, a coolie aged about 32 years has suffered paraplegia, which would indicate that he would not be in a position to do any type of work for the rest of his life. Therefore, to take the whole body disability at 80% is on lower side and the same should be taken at 100%.

5. Coming to the second substantial question of law, it is seen that though in the evidence it has come on record that the income of claimant is Rs. 71.60/-, considering the fact that accident has taken place in the year 2007 the said amount would not be the wage, which was prevailing at the relevant time. However, Rs. 71.60 with other benefits which works out to Rs. 100/- per day, which may have to be taken as the wage instead of Rs. 71.60 which is declared for the purpose of securing the policy. For the purpose of calculating the compensation, the income of claimant is taken Rs. 4,000/- p.m. So far as the liability of insurance company is concerned, it is taken at Rs. 100/- per day or Rs. 3,000/- p.m. However, for the purpose of awarding compensation this Court holds that the income of claimant is Rs. 4,000/- p.m. So far as the liability of insurance company is Concerned, it is restricted to compensation calculated on the basis of income at Rs. 3,000/- p.m. So far as balance of the amount of compensation, the claimant would be entitled to receive the same from the first

respondent-management of the estate. With this if the compensation payable to claimant is reassessed, it would be as under :

Rs. 4,000/- - 40% = Rs. 2,400/- x 203.85 = 4,89,240/-

Out of aforesaid amount, the liability of insurance company would be as under:-

Rs. 3,000/- - 40% = Rs. 1,800/- x 203.85 = 3,66,930/- is the liability of the insurance company and balance Rs. 1,22,310/- shall be the liability of first respondent-management.

6. Accordingly, this appeal filed by the claimant is allowed in part. So far as interest is concerned, the claimant is entitled to receive the compensation amount with interest at 12% p.a., from 30th day of the accident.