
(2016) 03 KAR CK 0098
In the Karnataka High Court
Case No : MFA No. 23677 of 2009 (WC).

New India Assurance Co. Ltd.

APPELLANT

Vs

Honnappa and another

RESPONDENT

Date of Decision : 08-03-2016

Acts Referred:

Employees Compensation Act, 1923 — Section 3

Citation : (2016) AAC 1195

Hon'ble Judges : B. Manohar, J.

Bench : Single Bench

Advocate : G. N. Raichur, Advocate, for the Appellant; V. Shivaraj Hiremath, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

B. Manohar, J. - The New India Assurance Company Limited has filed this appeal, being aggrieved by the judgment and order dated 16-7-2009 made in WCA 84/2005/NF passed by the Labour Officer and Commissioner for Workmen Compensation (hereinafter referred to as 'the WCC' for short).

2. The first respondent herein filed a claim petition contending that he was working as a cleaner in the lorry bearing registration No. KA-34/4400 belonging to the second respondent herein. On 14-6-2004, at about 5.00 p.m., while he was getting down from the lorry cabin, due to the slip of hand, he fell down and sustained grievous injuries. Immediately after the accident, he was shifted to VIMS hospital, Bellary. A complaint has been lodged before the Contonment Out Post police station. The MLC register was sent to the jurisdictional police by the VIMS hospital on 14-6-2004 itself and the police have also recorded the statement. The claimant has contended that the accident occurred during the course and out of employment. In view of the injuries sustained, he cannot do the work of cleaner as he was doing prior to the accident and sought for compensation.

3. In pursuance of the notice issued by the WCC, though the owner of the vehicle was served with notice, he remained unrepresented. The second respondent Insurance Company filed the written statement denying the entire averments made in the claim petition and disputed the relationship of master and servant between the claimant and owner of the vehicle and also the occurrence of accident on 14-6-2004.

4. On the basis of pleadings of the parties, the WCC framed necessary issues. The claimant in order to prove his case examined himself as P.W. 1 and got marked the documents as Ex.P1 to Ex.P4. One of the officers of the Insurance Company was examined as R.W.1.

5. The WCC after appreciating the oral and documentary evidence let in by the parties and taking into consideration copy of the complaint and OPD register maintained in the VIMS Hospital, held that the claimant has sustained grievous injuries during the course and out of employment on 14-6-2004 at about 5.00 p.m. Hence, he is entitled for compensation. With regard to quantum of compensation is concerned, the doctor who had issued the disability certificate has assessed the disability to an extent of 10%. In the accident, he has sustained tenderness over the left thigh and other injuries to the body. Except the injury to thigh, all other injuries are minor in nature. At the time of accident, the claimant was aged about 26 years. The WCC, taking into consideration the income of the claimant as Rs. 3,000/- p.m., taking 60% thereof, applying the relevant factor 215.28, considering the functional disability to an extent of 10%, awarded a sum of Rs. 38,750/- with interest at 12% p.a. Being aggrieved by the judgment and order passed by the WCC, the appellant-Insurance Company has filed this appeal.

6. I have carefully considered the arguments addressed by the learned counsel for the parties and perused the impugned judgment and award and other relevant records.

7. The records clearly disclose that the claimant has sustained grievous injuries in the road traffic accident occurred on 14-6-2004 during the course and out of employment. He has taken treatment in the VIMS hospital at Bellary. The doctor who had issued the disability certificate had assessed the disability to an extent of 10%. If the injuries sustained are unscheduled injuries, the qualified medical practitioner has to assess the disability. In the instant case, the injuries sustained by the claimant are unscheduled injuries. Hence, the doctor taking into consideration the injuries sustained by the claimant had assessed the disability to an extent of 10%. The accident occurred in the year 2004. Taking the income of the claimant at Rs. 3,000/- p.m., the WCC has awarded just compensation. I find no infirmity or irregularity in the quantum of compensation awarded by the WCC. The evidence let in by the parties clearly discloses that the claimant has sustained injuries in the road traffic accident during the course and out of employment. As on the date of accident, the vehicle was covered by the insurance policy. Hence, the liability has been rightly fastened on the insurer to

compensate the claimant, which do not call for interference by this Court. The appellant has not made out a ground to interfere with the judgment and order passed by the WCC. Accordingly, I pass the following :

ORDER

8. The appeal is dismissed.

9. The amount in deposit is directed to be transferred to the Civil Judge (Sr. Dn.), Bellary for disbursement.