



CNR: KAHC010530852016

NC: 2026:KHC:48655
MFA No. 2825 of 2016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO. 2825 OF 2016 (WC)

BETWEEN:

1. SALMA
W/O LATE AJMEER @ AJAM
AGED ABOUT 27 YEARS,
2. SABEEHA
D/O LATE AJMEER @ AJAM
AGED ABOUT 7 YEARS,
3. SABIA
D/O LATE AJMEER @ AJAM
AGED ABOUT 4 YEARS,
4. SHAIK MEHABOOB
S/O LATE SHAIK ABRAHIM
AGED ABOUT 69 YEARS,
5. SHAHTAJ BEGAM
W/O SHAIK MEHABOOB
AGED ABOUT 52 YEARS,





CNR: KAHC010530852016

NC: 2026:KHC:48655
MFA No. 2825 of 2016

ALL THE APPELLANTS ARE
R/AT NO.133, MOSQUE ROAD,
M.S.PALYA,
VIDYARANYAPURA POST,
BENGALURU - 560 097.

APPELLANTS NO.2 & 3 ARE
MINORS AND
REP BY THEIR MOTHER AND
NATURAL GUARDIAN
SMT. SALMA - APPELLANT NO.1.

...APPELLANTS

[BY SRI SHRIPAD V SHASTRI, ADVOCATE (VC)]

AND:

1. UNITED INDIA INSURANCE CO. LTD
R.O. 25, SHANKAR NARAYAN BLDG,
M.G.ROAD, BENGALURU - 01
BY ITS MANAGER.
2. MR. SANJAY GANDHI
S/O SRI CHINNATHAMBI,
MAJOR,
R/AT 6 & 6A, 1ST MAIN ROAD,
1ST CROSS, RMV 2ND STAGE,
LOTTEGOLLAHALLI,



CNR: KAHC010530852016

NC: 2026:KHC:48655
MFA No. 2825 of 2016

BENGALURU - 94.

...RESPONDENTS

[BY SRI G.S.MARULAIAH, ADVOCATE FOR R1 (PH);
R2 - NOTICE SERVED & UNREPRESENTED]

THIS MFA IS FILED U/S.30(1) OF WORKMEN'S COMPENSATION ACT, 1923, AGAINST THE JUDGMENT AND AWARD DATED 06.08.2015 PASSED ON ECA NO.153/14 ON THE FILE OF THE 12TH ADDITIONAL SMALL CAUSES JUDGE & MEMBER, MACT, BENGALURU, DISMISSING THE PETITION FILED U/S.22 OF EMPLOYEES COMPENSATION ACT.

THIS APPEAL, COMING ON FOR *ADMISSION*, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 06.08.2015 passed by Motor Accident Claims Tribunal at Bangalore (SCCH-8) (***Tribunal***) in E.C.A. no.153/2014, this appeal is filed.

2. Sri Shripad V.Shastri, learned counsel for appellant submitted that appeal is by legal representatives of deceased workman Sri Ajameer @ Ajam against dismissal of petition for compensation.



CNR: KAHC010530852016

NC: 2026:KHC:48655
MFA No. 2825 of 2016

3. It was submitted that Sri Ajameer @ Ajam was working as a driver in lorry bearing Reg.no.KA-05-548 belonging to respondent no.2 (employer) on monthly wages of Rs.6,000/- and while driving vehicle from Bengaluru towards Hassan, as per directions of employer, on 22.11.2007 at 5.30 p.m. lorry met with an accident near Kenchahally in which Ajameer sustained fatal injuries and died.

4. Alleging loss of dependency on account of untimely death, his wife, children and parents filed a petition for compensation under Section 22 of Employees Compensation Act, 1923 (**EC Act**). On appearance, petition was opposed only by insurer. In support of petition, petitioner no.1 examined herself as P.W.1 and got marked Exs.P-1 to P-11. Insurer examined its Administrative Officer as R.W.1 and Doctor, who had conducted Post Mortem was examined as R.W.2 and got marked EXs.R-1 and R2. On consideration, by taking note of contents of Ex.P-5 which indicated contents of intestine smelled of alcohol, would exclude liability of employer as per Section 3(1)(b)(i) of EC Act dismissed petition. Aggrieved, appeal was filed.



CNR: KAHC010530852016

NC: 2026:KHC:48655
MFA No. 2825 of 2016

5. It was submitted smell of alcohol noted in Ex.P-5 PM report would not by itself imply that workman was under influence of alcohol while driving vehicle and accident occurred due to his negligence. Even R.W.2 merely stated about contents of intestine smelling of alcohol and there was no material to indicate that workman was under influence of alcohol. Therefore, finding of Commissioner was contrary to material on record and as such perverse. On said substantial question of law, learned counsel sought for allowing appeal.

6. Sri G.S.Marulaiah, learned counsel for respondent no.1 insurer, on other hand would oppose appeal. Relying on decision of Hon'ble Supreme Court ***IFFCO Tokio General Insurance Company Ltd. v. Pearl Beverages Ltd.*** reported in ***AIR 2021 SC 2277***, it was submitted that there was allegation of rash and negligent driving and Ex.P-5 indicated presence of alcohol, and therefore, finding of Tribunal was justified. No substantial question of law would arise for consideration and sought for dismissal.

7. Heard learned counsel and perused award and material on record.



CNR: KAHC010530852016

NC: 2026:KHC:48655
MFA No. 2825 of 2016

8. This appeal is by unsuccessful workman in a petition under EC Act dismissed by referring to Section 3(1)(b)(i) of EC Act on ground that deceased workman was under influence of alcohol. Substantial question of law that would arise for consideration is-

"Whether finding of Tribunal about deceased workman being under influence of alcohol and dismissing application on said count suffers from perversity?"

9. Answer to said substantial question of law is in affirmative for following-

REASONS

10. There is no cavil about prescription of law under Section 3(1)(b)(i) of EC Act. If an incident occurs while workman is under influence of alcohol or drugs, liability of employer/insurer would stand discharged. However, consumption of alcohol and being under influence of alcohol are too wholly different aspects. And prescription of alcohol limit under Section 185 of Motor Vehicles Act, 1988 would substantiate such distinction. Based only on smell of alcohol, it



CNR: KAHC010530852016

NC: 2026:KHC:48655
MFA No. 2825 of 2016

cannot be implied that such person had consumed alcohol was under its influence. Unfortunately, in instant case, workman died in accident. No other eye-witness to accident has been examined. Only material to substantiate contention of respondent is borne out of Ex.P-5, Post Mortem report. It is not uncommon for half digested food to smell of alcohol due to fermentation. Said possibility has not been got ruled out in deposition of R.W.2.

11. Under above circumstances, conclusion of Commissioner that workman was under influence of alcohol based on Ex.P-5 and deposition of R.W.2 would be contrary to material on record and as such perverse.

12. Hence, Appeal is ***allowed***. Judgment and award dated 06.08.2015 passed by Motor Accident Claims Tribunal at Bangalore (SCCH-8) in E.C.A. no.153/2014 is set aside.

13. Matter is remitted back to Tribunal for fresh disposal. Both parties are directed to appear before Tribunal on **27.10.2026** without need for fresh notice. It is needless to



NC: 2026:KHC:48655
MFA No. 2825 of 2016

CNR: KAHC010530852016

state that parties would be at liberty to lead further evidence, if any.

14. Registry is directed to draw decree and transmit records to Tribunal well before 27.10.2026.

Sd/-
(RAVI V HOSMANI)
JUDGE

HNM
List No.: 1 Sl No.: 11