

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28th DAY OF OCTOBER, 2016

BEFORE

THE HON'BLE MRS. JUSTICE S.SUJATHA

M.F.A.No.3668/2013 (WC)

BETWEEN:

SRI.H.M.RAJASHEKAR
S/O SRI.MALLIKARJUNAPPA
AGED ABOUT 39 YEARS
R/AT NO.225, 2ND MAIN ROAD
5TH CROSS, KERINGAL,
KAMALANAGAR
BANGALORE – 560 079.

....APPELLANT

(BY SRI.RAMACHANDRA.R. NAIK, ADVOCATE)

AND:

SRI.M.N.RAVIKIRAN
OWNER OF M/S.S.B.S.ENTERPRISES
AND SERVICES, (L MARKS)
NO.29, NHCS LAY-OUT
BASVESHWARNAGAR
BANGALORE – 560 079.

(RESPONDENT SERVED.)

....RESPONDENT

THIS MFA IS FILED UNDER SECTION 30 OF W.C.ACT
AGAINST THE JUDGMENT AND ORDER DATED 19.06.2012
PASSED IN WCA NO. Ka-A Bem-1/ECA/NFC/CR-29/2011, ON
THE FILE OF THE LABOUR OFFICER AND COMMISSIONER
FOR WORKMEN COMPENSATION, SUB-DIVISION-1,
BANGALORE, PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION.

THIS MFA COMING ON FOR FURTHER ORDERS THIS
DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

This appeal is filed by the Workman/claimant challenging the judgment and order passed by the Commissioner for Workmen's Compensation, Sub-Division-1, Bangalore in No. Ka A Bem-1/ECA/NFC/CR-29/2011 with delay of 247 days in filing the appeal.

2. On perusal of the impugned judgment and order, it is evident that the employment accident had occurred on 14.07.2008. The workman was working as a senior technician with the respondent firm and was drawing salary of Rs.5,500/- p.m as contended by the claimant. Considering the same, the Commissioner determined the monthly wages of the appellant at Rs.5,000/- which cannot be found fault with, in view of the date of the employment accident i.e., on 14.07.2008. However, the learned counsel appearing for the appellant placing reliance on Section 4(2A) of the Employees' Compensation Act 1923, ('The Act' for short) contends that actual medical expenditure incurred by him for treatment of injuries caused during the course of employment shall be reimbursed.

3. It is significant to note that this provision was inserted by Act No.45/2009 with effect from 18.1.2010 and admittedly the employment accident in question occurred on 14.07.2008. Hence, the said provision is not applicable to the facts on hand. No substantial question of law arises for consideration. As such, no grounds are made out to condone the delay of 247 days in filing the appeal. Hence, I.A.No.1/2013 is dismissed. Consequently, appeal is dismissed.

**Sd/-
JUDGE**

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