R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO.3011 OF 2018 (WC)

BETWEEN:

SRI SWAMY
S/O RAMEGOWDA
SINCE DEAD BY HIS LRS

1. SMT. BHAGYAMMA
W/O LATE SWAMY
AGED ABOUT 48 YEARS,

2. PRASANNA
S/O LATE SWAMY
AGED ABOUT 28 YEARS,

3. SMT. CHAITHRA
D/O LATE SWAMY
AGED ABOUT 25 YEARS,
C/O. S.G. SHEKHAR

ALL ARE RESIDENTS OF
SHINDHABOHOGNAHALLI
CHINKURLI HOBLI, PANDAVPURA TALUK
MANDYA DISTRICT-571 434.

...APPELLANTS

(BY SRI B. PRAMOD, ADVOCATE)

AND:

1. KUMARA
S/O MARENKAGOWDA

AGED ABOUT 39 YEARS
RESIDENT OF SHIDHABOHOGNAHLLI
CHINKURLI HOBLI
PANDAVPURA TALUK
MANDYA DISTRICT-571 434.

…RESPONDENT

(BY SRI JNANESH KUMAR K., ADVOCATE)

THIS MFA IS FILED UNDER SECTION 30(1) OF THE EMPLOYEE'S COMPENSATION ACT, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 22.02.2018 PASSED IN ECA NO.83/2014 PASSED BY THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE AND BEFORE COMMISSIONER FOR EMPLOYEE'S COMPENSATION, MANDYA AND CONSEQUENTLY ALLOW THE CLAIM PETITION OF THE APPELLANTS, ETC.

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

CORAM: HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

1. The present appeal has been filed seeking to challenge the judgment and award dated 22.02.2018 in E.C.A No.83/2014 passed by the Principal Senior Civil Judge, Mandya [hereinafter referred to as the "Impugned Judgment"]. By the Impugned Judgment, the petition

filed under Section 10 of the Employee's Compensation Act, 2023 [hereinafter referred to as the "E.C. Act"] seeking compensation has been dismissed.

2. The Learned Trial Court has found that the injury sustained is not in accordance with the provisions of Section 3 of the E.C. Act, and thus, the petition has been dismissed.

3. Learned counsel for the appellants has raised only one challenge to the Impugned Judgment. He submits that the Impugned Judgment suffers from an infirmity and there were two incidences i.e., one of injury and the subsequent which led to the murder/death of the deceased and the Learned Trial Court has wrongly considered the second incident to pass the Impugned Judgment and Award.

4. Learned counsel for the respondent, on the other hand, submits that the Impugned Judgment does not

suffer from any infirmity since the injury was not caused during the course of employment.

5. Briefly the facts as set out in the claim petition are that the deceased Swamy (original petitioner) was working in a stone quarry belonging to the respondent as a daily wager. He absented himself from work on two days, and thereafter, when he went to work on 26.05.2010, the respondent abused the said Swamy and assaulted him with a piece of firewood which led to suffering injuries and permanent disability. The claim petition in addition sets out that a police complaint has been lodged against the Employer bearing Crime No.334/2010, wherein the police have registered a case under Sections 323 and 324 of IPC. The record also shows that during the course of proceedings before the Trial Court, the deceased was murdered and another complaint was filed against the respondent and his associates and criminal proceedings bearing S.C.No.38/2011 have been initiated against the respondent. Thus, the claim petition was filed by the

petitioners seeking compensation as a result of the injuries which were previously sustained by the original petitioner due to which he was unable to carry out his work.

6. The matter was contested before the Trial Court by the respondent. Based on the pleadings, the following issues were framed by the Trial Court:

> *"1) Whether the applicants prove Sri. Swamy s/o Ramegowda, being employed as labour in Shindaboganahalli, Quarry belong to the respondent, metw with accident/assault on 26.5.2010 and sustained grievous injuries resulting in disablement?*
>
> *2) Whether the accident arose out of and during the course of employment of the applicant under the respondent?*
>
> *3) What was the monthly wages of the applicant?*
>
> *4) What was the age of the applicant at the time of accident?*
>
> *5) What is the amount of compensation the applicant was entitled to receive?*
>
> *6) Which respondent is liable to deposit the compensation before this court?*
>
> *7) To what order?"*

7. Evidence was led by the legal representatives/ claimants of the deceased as well as the respondent. The

learned Trial Court after examining the facts found that although the petitioner was injured, this injury could not be said to be in terms of Section 3 of the Employees' Compensation Act, since it was not arising out of an accident at the workplace. The learned Trial Court held that the injury was an assault and other related offences under Sections 363, 302, 201 read with 149 of IPC. The relevant extracts of the Impugned Judgment are as below:

> *"13. Sec.3 of the Employee's Compensation Act deal with employers liability for compensation.* ***As per Sec.3 (1) of the said Act, if personal injury is caused to an employee by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance*** *with the provisions of the Chapter-II of the said Act. So, upon reading the said provision of law, it is clear, for any* ***employee to seek compensation the work place injuries shall arise out of an 'accident' meaning thereby, neither any intentional act nor anything else which would take place by a willful act would fall within the ambit of said provision of law.*** *In other words, I shall emphasis what is employed in said Sec.3 to find out a cause of action for compensation is a sufferance of injuries in an 'accident' arising out of and in the course of employment. So, me having emphasized the word 'accident' employed in said Sec.3 primarily I shall proceed to find out what is the meaning of 'accident'.*
>
> *14. The meaning of 'accident' in common parlance to be understood as an incident taking place unexpectedly and unintentionally as well an event happening by chance or without any deliberate cause.* ***Admittedly, in the Employee's compensation Act, 1923 the word***

> ***'accident' has not been defined, thereby, it has to be understood in the manner stated here before, meaning thereby, personal injury if at all suffered by an employee during the course of his employment same stands in the footing of sufferance of any such injuries due to an unintentional incident or*** *by chance rather any injury suffered by the employee in the course of employment by an intentional or deliberate act cannot be termed as 'accident' arising out of and in the course of employment.*
>
> [Emphasis Supplied]

7.1. The learned Trial Court also held that the injury did not arise from an accident within the meaning of Section 3(1) of the E.C. Act. It was further held that the subsequent death of the employee on 07.08.2010 did not have any nexus to the incident of 26.05.2010 in the following terms:

> *"15. Having understood the meaning of 'accident' as employed in Sec.3 of the above stated Act and before proceeding to appreciate the materials on record,* ***the point is whether the alleged incident of sufferance of personal injuries by the deceased petitioner on account of alleged assault upon him by the respondent would fall within the ambit of*** *the above discussed provision of law. In the said context it shall be held that,* ***the petition on hand from the point of claiming damages by way of compensation by the deceased petitioner against his alleged employer shall be considered on merit.*** *However, as far as* ***death of the petitioner being taken place during the pendency of the proceedings due to alleged murdering of him by the respondent is concerned, the said alleged act of murder entirely stands in different footing namely from the original cause of action which sought to be raised by the alleged***

> ***injured petitioner himself,*** *thereby in the opinion of the court, there being no nexus between the subsequent* ***death of deceased petitioner on 7.8.2010 and alleged injuries suffered on 26.5.2010, the question of looking into or appreciating any set of allegations against the respondent with respect to death of the petitioner taken place does not arise at all.*** *It may be true the police on investigation filed charge sheet against the respondent and others alleging offence u/sec.363, 302, 201 r/w sec.149 IPC, etc., and it may be true that, the prosecution against the respondent and others pending in SC No.38/2011 on the file of III Addl. Sessions Court, Srirangapatna, but the very alleged incident of kidnapping and murder having been taken place during his return to his house after seeing the stock of size stones stored at the lands of his brother in law by name Shekar S.G. namely the said place being outside the area where* ***petitioner was alleged employee under respondent as a quarry worker, the very said incident would entirely stands independent from the cause of action upon which the deceased petitioner maintained in the petition seeking damages for personal injuries, thereby once again as I have discussed above, without there being any nexus between the said subsequent death of the petitioner and earlier injuries suffered by him there is no need for this court within the ambit of Employee's compensation Act, to appreciate any set of said allegations rather such*** *an alleged act of kidnapping and murder of the petitioner being totally independent from the initial alleged assault upon the petitioner by the respondent, the court cannot look into the said set of allegations rather would confine the appreciation of materials pertaining to the original cause of action which sought to be raised by the deceased petitioner for his alleged personal injuries."*
>
> [Emphasis Supplied]

8. The learned Trial Court also found that the incident complained of can only be termed as an assault and not an

accident under Section 3(1) of the E.C. Act, which is as below:

> *"22. In view of the foregoing reasons & discussions made, I am to conclude that, the deceased petitioner no doubt was employee under the respondent in a building stone quarry belongs to him and it also appears with all probability that, some alleged act said to have taken place upon the said petitioner,* ***but such an alleged act of assault or alleged accident stated by the petitioner cannot be termed as accident within the meaning of Sec.3 of the EC Act, as such, it cannot be held that such an alleged injury suffered by the petitioner to be treated as an accident arose out of and during the course of employment.*** *Accordingly, the issue No.1 liable to be answered partly in affirmative as to the employment of the petitioner under the respondent. Same time, it has to be negatived stating that, any such alleged incident can not be treated as an accident leading to disablement for the petitioner. Accordingly, the said issue No.1 is answered partly in affirmative. Same time, for the discussion made here above, the issue No.2 is liable to be answered in negative."*
>
> [Emphasis Supplied]

9. As stated above, the only ground for challenge that has been raised by the learned counsel for the appellants is that the incident was not an assault. However, this contention is not borne out from the record. The claim petition filed before the Learned Trial Court sets out that there was no accident, but in fact the respondent/

employer who assaulted the deceased. This has been reproduced in the Impugned Judgment which is as below:

> *"2. ……..*
> *It is stated in the petition that, the injured petitioner has been working since 5 years under respondent in a stone quarry belongs to the said respondent by carrying on coolie work in the said mine by getting daily wages of Rs.300/-.* ***It was on 24.5.2010 and 25.5.2010, the petitioner was not keeping well, as such, did not go to quarry for regular work, thereafter, he went for work on 26.5.2010 around 2 p.m. wherein the respondent has abused him in filthy language for having not went for work on previous dates and assaulted him with a piece of fire wood on the part of his two legs and on the part of his back, as well on the part of his head, as such, he suffered injuries which led to permanent disability for him disabling him from carrying on the work which he was doing.*** *It is further alleged by the petitioner that due to such injury suffered by him he has lost future earning capacity, as such, the Dependants of him namely the wife and children are in difficulty, thereby, it is the respondent who has caused such misconduct and negligence liable to pay him the compensation sought……."*
>
> [Emphasis Supplied]

10. It is apposite to set out Section 3(1) of the E.C. Act as under:

> *3.* ***Employer's liability for compensation.****- (1) If personal injury is caused to an employee* ***by accident arising out of and in the course of his employment,*** *his employer shall be liable to pay compensation in accordance with the provisions of this Chapter.*
>
> *Provided that the employer shall not be so liable,—*

> *(a) in respect of any injury which does not result in the total or partial disablement of the employee for a period exceeding three days;*
>
> *(b) in respect of any injury, not resulting in death or permanent total disablement, caused by an accident which is directly attributable to—*
>
> *(i) the employee having been at the time thereof under the influence of drink or drugs, or*
>
> *(ii) the wilful disobedience of the employee to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of employees, or*
>
> *(iii) the wilful removal or disregard by the employee of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of employee."*
>
> [Emphasis Supplied]

10.1. The Supreme Court, has, in the case of ***B.E.S.T. Undertaking v. Agnes***[1] clarified this definition and held that the doctrine of notional extension, holding that employment is not confined to the exact place or hours of work and may extend to the employee's entry to and exit from the workplace, including access routes or transport necessitated by employment, depending on the facts of each case. The relevant extract is set out below:

[1] 1963 SCC Online SC 252: (1964) 3 SCR 930

> *"12. Under Section 3(1) of the Act the injury must be caused to the workman by an accident arising out of and in the course of his employment. The question, when does an employment begin and when does it cease, depends upon the facts of each case. But the Courts have agreed that the employment does not necessarily end when the "down tool" signal is given or when the workman leaves the actual workshop where he is working. There is a notional extension as both the entry and exit by time and space. The scope of such extension "must necessarily depend on the circumstances of a given case.* ***An employment may end or may begin not only when the employee begins to work or leaves this tools but also when he used the means of access and egress to and from the place of employment. A contractual duty or obligation on the part of an employer to use only a particular means of transport extends the area, of the field of employment to the course of the said transport. Though at the beginning the word "duty" has been strictly construed, the later decisions have liberalized this concept. A theoretical option to take an alternative route may not detract from such a duty if the accepted one is of proved necessity or of practical compulsion.*** *But none of the decisions cited at the Bar deals with a transport service operating over a large area like Bombay. They are, therefore, of little assistance, except insofar as they laid down the principles of general application. Indeed, some of the law Lords expressly excluded from the scope of their discussion cases where the exigencies of work compel an employee to traverse public streets and other public places. The problem that now arises before us is a novel one and is not covered by authority."*
>
> [Emphasis Supplied]

11. In ***Daivshala and Others v. Oriental Insurance Company Ltd. and Another***[2], the Supreme Court, while interpreting the meaning of "*arising out of and in the*

[2] 2025 SCC OnLine SC 1534

course of his employment" has held that, a restrictive meaning has been given to this phrase. Unless an employee can establish that the injury was caused or had its origin in the employment, he cannot succeed in a claim. The accident is to have arisen out of his employment and with a causal connection to the employment. The relevant extract is set out below:

> **"***14. In Francis De Costa (supra) the employee met with an accident when he was on his way to the place of employment, at a distance of 1 km, from the place of work. This Court found against the employee by holding as under:—*
>
> > **"***5. …… Therefore, the employee, in order to succeed in this case, will have to prove that the injury he had suffered arose out of and was in the course of his employment. Both the conditions will have to be fulfilled before he could claim any benefit under the Act.* ***It does not appear that the injury suffered by the employee in the instant case arose in any way out of his employment. The injury was sustained while the employee was on his way to the factory where he was employed. The accident took place one kilometre away from the place of employment. Unless it can be said that his employment began as soon as he set out for the factory from his home, it cannot be said that the injury was caused by an accident "arising out of … his employment". A road accident may happen anywhere at any time. But such accident cannot be said to have arisen out of employment, unless it can be shown that the employee was doing something incidental to his employment.***

*6. In our judgment, by using the words "arising out of … his employment", the legislature gave a restrictive meaning to "employment injury". **The injury must be of such an extent as can be attributed to an accident or an occupational disease arising out of his employment. "Out of",** in this context, must mean caused by employment. Of course, the phrase "out of" has an exclusive meaning also. If a man is described to be out of his employment, it means he is without a job. The other meaning of the phrase "out of" is "influenced, inspired, or caused by : out of pity; out of respect for him" (Webster's Comprehensive Dictionary — International Edition — 1984). In the context of Section 2(8), the words "out of" indicate that the injury must be caused by an accident which had its origin in the employment. A mere road accident, while an employee is on his way to his place of employment cannot be said to have its origin in his employment in the factory. The phrase "out of the employment" was construed in the case of South Maitland Railways Pty. Ltd. v. James, [67 CLR 496] where construing the phrase "out of the employment", Starke, J., held*

"the words 'out of' require that the injury had its origin in the employment".

*7. Unless an employee can establish that the injury was caused or had its origin in the employment, he cannot succeed in a claim based on Section 2(8) of the Act. **The words "accident …arising out of … his employment" indicate that any accident which occurred while going to the place of employment or for the purpose of** employment, cannot be said to have arisen out of his employment. There is no causal connection between the accident and the employment.*

*8. The other words of limitation in sub-section (8) of Section 2 are "in the course of his employment". The dictionary meaning of "in the course of" is "during (in the course of time, as time goes by), while doing" (The Concise Oxford Dictionary, New Seventh Edition). **The dictionary meaning indicates that the accident must take place within or during the period of employment. If the employee's work-shift begins at 4.30 p.m., any accident before that time will***

> ***not be "in the course of his employment". The journey to the factory may have been undertaken for working at the factory at 4.30 p.m. But this journey was certainly not in the course of employment. If 'employment' beings from the moment the employee sets out from his house for the factory, then even if the employee stumbles and falls down at the doorstep of his house, the accident will have to be treated as to have taken place in the course of his employment. This interpretation leads to absurdity and has to be avoided."***
>
> [Emphasis Supplied]

12. In view of the aforegoing, this Court is unable to find any infirmity with the detailed, reasoned Impugned Judgment passed by the Learned Trial Court, which has held that an assault cannot be termed as 'accident' within the meaning of Section 3 of the E.C. Act. The death subsequent to injury is essentially as a result of assault etc., and the criminal proceedings have already been initiated against the respondent. Thus, it cannot be said that the accident is caused during the course of employment. The appeal is accordingly dismissed.

13. However, dismissal of this appeal will not preclude the appellants from taking appropriate remedies in

accordance with law in relation to the criminal proceedings which are pending *inter se* between the parties.

Sd/-
(TARA VITASTA GANJU)
JUDGE

Hkh/BMV*
List No.: 1 Sl No.: 19