

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 25th DAY OF FEBRUARY 2014

BEFORE:

THE HONOURABLE MR. JUSTICE ANAND BYRAREDDY

COMPANY APPLICATION Nos.215 AND 216 OF 2014

IN

COMPANY PETITION No. 166 OF 2001

BETWEEN:

Alex Loius Jenkis
Dead by legal representatives

1. James,
Son of Late Alex Loius Jenkis,
Aged about 40 years,
2. Gloria,
Daughter of Late Alex Loius Jenkis,
Aged about 38 years,
3. Leena,
Daughter of Late Alex Loius Jenkis,
Aged about 36 years,
4. Sheela,
Daughter of Late Alex Loius Jenkis,
Aged about 31 years,
5. Loylu,
Daughter of Late Alex Loius Jenkis,

Aged about 28 years,

6. Sagaya Mery,
Daughter of Late Alex Loius Jenkis,
Aged about 25 years,
7. Smt. Pilomina,
Wife of Late Late Alex Loius Jenkis,
Aged about 58 years,

All are residents of
c/o. Alex Loius Jenkis,
near ESI Hospital,
Gandhinagar,
Harihar.

... APPLICANTS
COMMON

(By Shri. R.B. Contractor, Advocate)

AND:

The Official Liquidator,
M/s. Mysore Kirloskar Limited
(in liquidation), Raheja Towers,
12th Floor, M.G.Road,
Bangalore.

...RESPONDENT
COMMON

(By Shri. K.S. Mahadevan and Shri. V. Jayaram, Advocates for
Official Liquidator)

Company Application No.215/2014 filed under Rule 164
read with 6 and 9 of the Company [Court] Rules 1959, praying to

set aside the form No.69 and issue direction to the official liquidator to re-adjudicate the claims of the applicant by way of admitting closure compensation and gratuity.

Company Application No.216/2014 filed under Rule 164 of company Court Rules 1959 read with Section 5 of Limitation Act, praying to condone the 1095 days delay of filing in the above appeal memo by allowing this application.

These Company Applications coming on for Orders this day, the Court made the following: -

ORDER

For the reasons stated in the affidavit filed in support of the application, the application in CA 216/2014 is allowed and the delay is condoned.

2. The applicant in CA 215/2014, seeks to question the denial of closure compensation.

The issue is no longer *res integra*, as it has been dealt with and decided by this court in a company application in CA 1382/2012 in Company Petition No.166/2001.

Insofar as the gratuity amount is concerned, as observed by this court, it is for the applicant to make necessary application before the Mysore Kirloskar Employees Gratuity Fund Trust, to recover the said amount. In the event the Trust declines to make payment of the gratuity to the applicant, on the premise that the company in liquidation has not made over the said sum towards the gratuity amount, it is open for the applicants to make necessary application before this court. In so far as the other claims are concerned, the Official Liquidator is directed to adjudicate the claims in accordance with law.

With the above observation, the application stands disposed of.

**Sd/-
JUDGE**

Rd/nv