



2026:AHC:175908

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 827 of 2013

The National Insurance Co. Ltd.

.....Appellant(s)

Versus

Shane Alam And Another

.....Respondent(s)

Counsel for Appellant(s) : Radhey Shyam

Counsel for Respondent(s) : Krishna Dutt Tiwari, Ram Shiromani
Yadav, Rizwan Ahmad

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Shri Radhey Shyam, learned counsel for the appellant-Insurance Company and Shri Satya Deo Ojha holding brief of Shri Ram Shiromani Yadav, learned counsel for respondent-claimant are present.

2. This appeal has been filed on behalf of the appellant-Insurance Company with a prayer to set aside the impugned judgment and award dated 31.1.2013 passed by Employees' Compensation Commissioner/Deputy Labour Commissioner, Moradabad in Case No. ECA/79/2011 (Shri Shane Alam Vs. National Insurance Company Ltd. Mandaliya Karyalya & Anr.) whereby compensation of Rs.6,89,730/- has been awarded to the claimants.

3. Briefly stated, the respondent no.1 (injured) filed a claim petition before the Employees' Compensation Commissioner seeking compensation on account of injuries alleged to have been sustained by the respondent in his left leg on 29.3.2011 during the course of employment as a cleaner of truck no. UP 21 N/5383. Said claim petition was allowed by Employees' Compensation Commissioner vide its judgement dated 31.1.2013 and an amount of Rs.6,89,730/- was awarded.

4. Learned counsel for the appellant-Insurance Company submitted that Employees' Compensation Commissioner has failed to appreciate the available evidence on record and has recorded findings against the settled laws as well as the available facts. It was submitted that respondent had miserably failed to prove relationship of employer and employee between

the owner of the truck in question and claimant respondent. The disability certificate produced on behalf of the respondent was accepted by the Employees' Compensation Commissioner without seeking opinion of the doctor as has been mandated in the Compensation Act. The said award by taking into account the disability certificate of the injured was passed determining 100% loss of earning capacity of the injured, though the disability certificate disclosed 65% disability. Learned counsel for the appellant has framed the following substantial question of law in this appeal:-

"(1) Whether the E.C. Commissioner is justified in awarding compensation under the E.C. Act, whereas the claimant had failed to prove his employment as well as injuries received during the course of his employment?

(2) Whether the E.C. Commissioner is justified in awarding compensation under the E.C. Act, in absence of any evidence and materials, regarding employment as well as wages of the claimant?

(3) Whether the E.C. Commissioner is justified in accepting the employment of the claimant on relying the written statement alleged to be filed by owner of truck under the circumstances when the owner did not appeared before the authority below and had failed to prove the contents of written statement?

(4) Whether the E.C. Commissioner is justified in accepting 100% loss of earning capacity under the circumstances when the disability certificate discloses only 65% disability to the claimant?

(5) Whether the E.C. Commissioner is justified in holding that the truck was involved in the accident, whereas in the site plan it has nowhere mention about the truck, which itself shows about the false implication of the truck in question?

(6) Whether claim petition is maintainable in absence of notice under Section 10 of E.C. Act, 1923?"

5. Per contra, learned counsel for the respondent-claimant submitted that this appeal as such is not maintainable because all the questions raised by the appellant are questions of fact and they do not constitute substantive questions of law. All the issues are disputed questions of fact which were appreciated, determined and thereby decided by the Employees' Compensation Commissioner. The issues of fact decided by Employees' Compensation Commissioner cannot be challenged in an appeal under Section 30 of Employees' Compensation Act, 1923. If any such appeal raising questions of fact is filed, the same is liable to be dismissed as held by Hon'ble Supreme Court in **North East Karnataka Road Transport Corporation vs. Smt. Sujata 2018 (4) TAC 673 (SC)** and **Golla Rajanna etc. etc. vs. Divisional Manager and Another 2017 (1) TAC 259 (SC)**.

6. Heard learned counsel for the parties and perused the records.

7. From a perusal of the records, it is apparent that owner of the truck in question has only filed a written statement accepting the claim of the claimant and there is no denial or rebuttal of the claim.

8. It is very much evident that the grounds of appeal do not consist any substantive questions of law. Question regarding the relationship between the employer and employee as well as considering disability certificate of the injured by the Employees' Compensation Commissioner etc. are purely questions of fact and cannot be entertained in an appeal filed under Section 30 of Employees' Compensation Act.

9. Hon'ble Supreme Court in **North East Karnataka Road Transport Corporation (supra)** held that such issues are essentially the questions of fact. Once they are proved either way, the findings they are on record are the findings of fact. Similarly in **Golla Rajanna (supra)**, it was held that determination of nature of injury and percentage of disability by Employees' Compensation Commissioner is purely a question of fact. It was further held that although the percentage of permanent disability needs to be assessed only by a qualified medical practitioner as provided under Section 4(1)(c)(ii) of the Act, the same again is also a pure question of fact unless the appellant is able to show that the doctor who issued a

disability certificate is not a qualified medical practitioner.

10. In case at hand, the said disability certificate, as admitted by the appellant, was issued by the concerned Chief Medical Officers. Therefore, it cannot be said that Chief Medical Officer issuing disability certificate was not a qualified doctor to issue the same. Hence, this appeal, which is based on purely a question of fact, is not maintainable and is liable to be dismissed.

11. In view of the above, this appeal is dismissed and the impugned judgment and award is upheld.

(Anil Kumar-X,J.)

August 20, 2026

Neetu