

Court No. - 2

Case :- FIRST APPEAL FROM ORDER No. - 466 of 2001

Appellant :- Arun Kumar Bhardwaj

Respondent :- Tika Ram And Another

Counsel for Appellant :- Jitendra Pal Singh Chauhan

Counsel for Respondent :- Prasoon Tomar

Hon'ble Saral Srivastava,J.

1. Heard learned counsel for the appellant and learned counsel for the respondents.

2. The present appeal has been filed by the appellant challenging the award dated 06.02.2001 passed by Workmen Compensation Commissioner and Assistant Labour Commissioner, Bijnor in Workman Compensation Application No.12 of 1999.

3. Challenging the award, learned counsel for the appellant has contended that the award passed by the Workmen Compensation Commissioner is bad in law inasmuch as there was no compliance of Section 10 of the Workmen Compensation Act, 1923. It is submitted that no notice as contemplated under Section 10 of Workmen Compensation Act was served upon the appellant by the respondent informing him about the alleged accident. Accordingly, it is submitted that the Commissioner has erred in entertaining the claim application. It is submitted that 10% interest awarded by the Commissioner is also excessive.

4. Per contra, learned counsel for the respondents would contend that the plea in respect of maintainability of claim petition on the ground of non-compliance of Section 10 of the Workmen Compensation Act raised herein was not raised before the

Workmen Compensation Commissioner inasmuch as the appellant did not get any issue framed on the said point. It is submitted that the said issue cannot be raised here in appeal under Section 30 of the Workmen Compensation Act. It is further submitted that the Commissioner has rightly awarded 10% interest considering the fact that the accident had taken place in the year 1998.

5. Be that as it may, the appellant has not got any issue framed in respect to non maintainability of claim petition because of non-compliance of Section 10 of Workmen Compensation Act. The appellant did not get any issue framed on the said point and as such the Commissioner was not expected to give any finding on the said issue. Since the appeal under Section 30 of Workmen Compensation Act is only maintainable on the substantial question of law and the point raised herein does not fall within the ambit of substantial question of law, therefore, contention advanced by learned counsel for the appellant is misconceived and is accordingly rejected.

6. So far as the award of interest is concerned, the accident had taken place in the year 1998 and at that time, the normal rate of interest prevalent in the market was 10%, therefore, the Commissioner has not erred in law in awarding 10% interest.

7. For the reasons given above, the appeal lacks merit and is accordingly ***dismissed***.

Order Date :- 27.10.2023
R.S. Tiwari