

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 226 OF 2014

The Manager,
Shivparwati Steel Re-rolling Mill,
MIDC, Jalna, Taluka
and District Jalna

APPELLANT

VERSUS

1. Shri Kashinath s/o Kishan Johare,
Age : 42 years, Occu. Nil,
R/o Behind Rohidas Mandir,
Chandanzira, Jalna, Taluka
and District Jalna
2. Shri Sukendrasing Dillo (Foreman),
R/o Padmawatinagar, Behind
Bajajnagar, Aurangabad Road,
Jalna, Tq. and District Jalna

RESPONDENTS

Mr. Sachin V. Dankh, Advocate for the appellant
Mr. S.R. Bodade, Advocate for respondent No.1.
None for respondent No. 2, though duly served

CORAM : M.T. JOSHI, J.

DATE : 20/02/2015

ORAL JUDGEMENT :

1. Heard both sides.
2. The learned counsel for the appellant has placed reliance on the ratio laid down in the case of
"New India Assurance Company Ltd. Vs. Suresh Pandurang

Shinde @ Patil and another", reported in ***2006 (5) LJSOFT 72***, wherein in similar situation, where no medical evidence was led, this Court, after considering the Full Bench decision of the Karnataka High Court in the case of ***"Shivlinga Sivanagauda Patil Vs. Irappa Basappa Bhaviala"***, reported in ***2004 I LLJ 1989***, has directed for remand of the matter.

3. In that view of the matter, the present appeal succeeds and is allowed, to the limited extent of quantum of compensation. The impugned judgement and order dated 07.11.2013, passed by the Commissioner for Workmen's Compensation), Aurangabad, in Application (WC) No. 7/2012, is hereby set aside, to that extent and the matter is remanded to the learned Commissioner for Workmen's Compensation, Aurangabad who shall allow the parties to lead the evidence on the issue of disability/permanent disability of the respondent No. 1/original applicant and quantum of compensation only, and decide the case afresh.

4. The parties are directed to appear before the learned Commissioner (Workmen's Compensation), Aurangabad on 18th April, 2015.

5. The present respondent No.1 has already withdrawn 25% of the amount under the award, deposited in the office of the learned Commissioner for Workmen's Compensation. The respondent No. 1 is now allowed to withdraw additional 25% of the amount deposited in the office of the learned Commissioner for Workmen's Compensation, Aurangabad, together with upto-date proportionate interest, upon executing an undertaking before the learned Commissioner that in case any order adverse to his interest is passed in future, he would refund the said amount within a period of four months from the date of such order. The balance of the amount be invested as per the usual practice in Fix Deposit Receipt/s with any nationalized bank.

6. With above directions, the present appeal stands disposed of.

[M.T. JOSHI]
JUDGE