

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11551 OF 2017
(Dilip Dnyandeo Patil and others Vs. Badrinath Subhash Paikrao)

Mr.R.B.Muley, Advocate for the petitioner.
Mr.S.R.Bodade, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 26/09/2017

PER COURT :

1. The petitioner is aggrieved by the order dated 25/07/2017 by which the Trial Court has kept application Exh.C-72 pending and has not entertained the prayer of the petitioners to refer the original claimant to a medical examination by the Medical Board.

2. I have considered the submissions of the learned Advocates for the respective sides.

3. It is trite that in a claim for compensation under the Employees' Compensation Act (the Workmen's Compensation Act, 1923), a disability certificate by a Government approved Medical Board indicating the loss of earning capacity, has to be placed on record since it is decisive while deciding the percentage of loss of

earning capacity and the quantum of compensation as per the prescribed schedule under the Act.

4. It is not disputed that in the instant case, there was no medical examination by the Medical Board indicating the percentage of disability which would be the percentage of the loss of earning capacity. It is always in the interest of the claimant that such a certificate is placed on record which would be indicative of his loss of earning capacity.

5. At this juncture, learned Advocate for the respondent/ original claimant has taken instructions from the claimant present in the Court that he is willing to be subjected to a medical examination by the Government Medical College/Hospital at Aurangabad.

6. Considering the above, this petition is disposed off. The Labour Court shall take up application EXh.C-72 in the light of the above observations and pass an order referring the original claimant/ applicant to the Government Medical Hospital at Aurangabad for a medical examination and for issuance of a certificate indicating the disability factor / percentage, if any. The Labour Court shall accordingly direct the Medical College / Board to examine the

claimant and submit its certificate / report in a sealed envelope to the Labour Court within a period of 6 (six) weeks from the date of the passing of the order by the Labour Court.

(Ravindra V.Ghuge, J.)