

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.M.A.No.631 OF 1999

JUDGMENT:

This appeal is filed under Section 30 of the Workmen's Compensation Act, 1923 (for short, 'the Act'), by the appellant-applicant aggrieved by the order dated 26.11.1998 in W.C.Case No.79 of 1996 on the file of the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Karimnagar (for short, 'the Tribunal').

2. Heard the learned counsel for the appellant-applicant and perused the record.

3. Learned counsel appearing for the appellant-applicant would submit that the appellant suffered 76% of disability. There is no dispute with regard to his employment under respondent No.1. There is also no dispute with regard to the appellant suffering injuries in the course of his employment. The Assistant Commissioner without justifiable reason did not act upon the evidence of doctor-P.W.2 and Ex.P2 disability certificate and erroneously dismissed the compensation application, which was filed for Rs.2,92,052/- and ultimately prayed to grant the same.

4. In spite of service of notice, there is no representation on behalf of respondent No.1. As this appeal relates to the year 1999, it can be disposed of on merits.

5. The Assistant Commissioner held that the appellant suffered injuries in the course of employment under respondent No.1 but did not accept the wound certificate marked as Ex.P2. The Assistant Commissioner had assigned the reasons therefor. On behalf of the appellant, Ex.P1 admission slip issued by Osmania Hospital, Hyderabad and Ex.P2 disability certificate were marked. P.W.2 doctor deposed about the examination of appellant and issuance of Ex.P2 disability

certificate, wherein physical disability is shown as 76%. It has come in the evidence of the doctor that on seeing the X-rays, he issued Ex.P2 disability certificate.

6. Admittedly, the appellant did not file wound certificate and his case sheet. Further, he did not examine the doctor, who treated him for the fractures said to have been suffered by him. Those documents are necessary to determine the percentage of physical disability. The Commissioner while dealing with the entire evidence on record, concluded that the appellant is workman under respondent No.1. To claim compensation under the Workmen's Compensation Act, percentage of disability suffered by the applicant is required to be proved. When there are no X-rays, wound certificate and case sheet, it is difficult to believe the fractures said to have been suffered by the appellant. Further, the disability certificate was not obtained from the District Medical Board, which is competent to examine the applicant and issue disability certificate. In the absence of above material evidence, it is not just to conclude that the appellant suffered any disability. Further, as per the records, he was fit to work as carpenter under respondent No.1. So, in view of the circumstances of the case, no infirmity is found in the impugned order. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed. There shall be no order as to costs.

Miscellaneous Petitions pending, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 11.06.2018
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