

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Revision No.3194 of 2018 (O&M)

Date of decision: May 14, 2018

M/s Mittal Timber Traders through its proprietor Rajesh Mittal

...Petitioner

Versus

Hemraj

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Munfaid Khan, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner M/s Mittal Timber Traders through its proprietor Rajesh Mittal has filed this revision petition against respondent Hemraj under Article 227 of the Constitution of India for setting aside the order dated 04.05.2018 passed by learned Commissioner under Employees Compensation Act, 1923, Circle-I, Gurugram, vide which the application of the petitioner to reassess the disability of the respondent, has been dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that during the proceedings, an application has been filed by the petitioner for directing respondent Hemraj to get his physical disability reassessed. It is mainly stated in the

application that the disability certificate is prima facie wrong and vague and

the same has been got managed by claimant Hemraj with collusion and connivance of the Doctors concerned. He further alleged that said certificate has been got issued illegally and the assessment of 40% bodily disability by the doctors is on a very higher side and therefore, he prayed that claimant Hemraj be directed get his physical disability reassessed from a medical board, other than, that of the General Hospital, Gurgaon.

In the reply, claimant Hemraj denied the averments of the application and stated that Disability Certificate has been given by competent medical board of Civil Hospital, Gurugram, after an application in this behalf had been made and consequently allowed by then Commissioner, under Employees Compensation Act. It is also stated by the claimant that applicant be asked to give strict proof as he not being a medical expert, cannot give an opinion that disability assessment of 40% of the claimant is on higher side.

Learned Commissioner under Employees Compensation Act, 1923, Circle-I, Gurugram, vide impugned order dated 04.05.2018, dismissed the application filed by the petitioner.

After hearing learned counsel for the petitioner as well as going through the record, I find that earlier the application filed by the petitioner was dismissed and that order was challenged before this Court. Vide order dated 14.03.2018, this Court directed the authority concerned to decide the application in a most pragmatic and reasonable manner as the application is required to be reconsidered by noticing the averments made therein.

Now, a detailed order dated 04.05.2018 has been passed while dismissing the application. The perusal of the impugned order dated

been committed while dismissing the application. The medical certificate has been given by Board of three Doctors including Deputy Civil Surgeon, PMO and Specialized Doctor i.e. Orthopaedic Surgeon of General Hospital, Gurgaon, duly constituted under the law. The present petitioner is not a medical practitioner nor his opinion is based on any expert report and has simply stated that disability of 40% is on higher side but no basis has been given as to how this disability is on higher side. At the time of evidence, the petitioner can produce his medical evidence before the Commissioner to show that the disability is not 40% but less and the Commissioner will decide the same. At this stage, there is nothing to doubt the disability certificate issued by Board of three Doctors. There is nothing on the record, at this stage, to show any collusion or connivance of the claimant with the Board of Doctors.

In view of the above discussion, I find that no illegality has been committed while passing the impugned order. The order dated 04.05.2018 passed by learned Commissioner under Employees Compensation Act, 1923, Circle-I, Gurugram, is correct, as per law and does not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

May 14, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No