



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

928 FIRST APPEAL NO. 1025 OF 2025

SHOAIB KHAN ILIYAS KHAN
VERSUS
ILIYAS KHAN SUBHAN KHAN PATAVE AND ANOTHER

...
Mr. Shahrukh Shah - Advocate for Appellant

....

CORAM : SHAILESH P. BRAHME, J.
DATE : 11.06.2025

PER COURT :

1. Heard learned Counsel for the appellant. The appellant is challenging the judgment and order dated 10.07.2024 passed by learned Commissioner in Application (W.C.A.) No. 8 of 2019 dismissing his claim for compensation.

2. The case of appellant is that respondent No.1 is the employer and appellant was working as cleaner since last three years from the date of accident. On 17.01.2019 goods vehicle of the respondent No.1 met with an accident and appellant sustained injury. There was employer-employee relationship between appellant and respondent No.1. The appellant was receiving Rs.8,000/- towards monthly wages and Rs.100/- towards daily allowance. He was hospitalized for few

days. His left hand elbow was amputated and he was permanently disabled. The vehicle in question was insured with respondent No.1. In these facts and circumstances, he claims Rs.16,00,000/- towards compensation.

3. Respondent No.1 who is the employer supported the claim. Respondent No.2 vehemently opposed the claim. It was disclosed that respondent No.1 is the father of the appellant. There was no employer-employee relationship. The Insurance Company was not liable to pay any compensation.

4. On the basis of oral and documentary evidence the learned Commissioner recorded the finding that employer-employee relationship has not been established and findings on remaining issues were recorded in favour of the appellant. His claim was rejected mainly on the ground that, absolutely there was no material on record to indicate employer-employee relationship.

5. Learned Counsel for appellant submits that, there are substantial questions of law involved in the appeal which are enumerated in the appeal memo. It is submitted that, there was cogent oral evidence as well as police papers to indicate that, appellant was working with respondent No.1. It is further contended

that, the Employee Compensation Act is the beneficial legislation and appellant should not have been non suited on technical ground. He would submit that, medical papers and the police papers are sufficient to prove that the appellant sustained injuries in an accident arising out and in the course of employment.

6. I have gone through the impugned judgment and order. Admittedly, appellant is the son of respondent No.1. Except oral evidence of appellant and respondent No.1 there is absolutely no evidence to show that, there was employer-employee relationship. The factum of accident and injuries sustained by the appellant are evident on record. Employer-employee relationship is *sine qua non* as per Section 4 of the Employer Compensation Act. In absence of any material the claim under that cannot be considered.

7. My attention is adverted to the police papers to show that even in the statement recorded during the course of investigation employer-employee relationship was disclosed. I am of the considered view that, statement recorded by police is not sufficient. In the impugned order all aspects of the matter are taken into account. I do not find any perversity or patent illegality in the impugned judgment. Learned Commissioner has taken a reasonable

view. Merely because act is a beneficial legislation, would not mean that the predominant requirement under the Act is dispensed with. The substantial questions of law placed on record by the appellant would not convince me.

8. Under these facts and circumstances, I do not find any merit in the appeal, therefore appeal stands dismissed.

[SHAILESH P. BRAHME]
JUDGE

Pooja Kale