



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Decision: 10.04.2026

+ **FAO 111/2020**

NEW INDIA ASSURANCE COMPANY LTDAppellant
Through: Mr. Abhishek Gola and Mr. Anshul
Mehral, Advocates

versus

PHULSHANKAR @ FOOL SHANKER MEENA
& ANRRespondents

Through: Mr. R.K. Nain, Mr. Chandan
Prajapati, Mr. Vipul Jain, Mr. Vikrant
Malwal, Mr. Mukul Kumar,
Mr. Abhinav Chaudhary and
Mr. Lakshay, Advocates for
respondent no. 1, Mr. Vishesh
Wadhwa, Mr. Aditya Singh,
Advocates for R-2

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present appeal has been instituted under Section 30 of the Employee's Compensation Act, 1923 (hereafter referred to as the 'EC Act') seeking to assail the order dated 26.07.2019 passed by the learned Commissioner, Employee's Compensation, Labour Department, Govt. of NCT of Delhi. Vide the impugned order, the learned Commissioner allowed the claim petition and directed the appellant-insurance company to pay the compensation amount.
2. The claim application seeking injury compensation came to be filed in the context of an accident that occurred on 21.10.2016, wherein the



claimant, who was employed as a driver on a vehicle bearing no. HR-55Q-1542, suffered injuries all over his body, especially on his left leg arising in and out of the course of his employment. It was claimed that the claimant was driving the truck in question while taking a trip from Delhi to Mumbai having loaded rice therein and, on his way back, met with an accident when he reached in the jurisdiction of Police Station *Palsana, District Surat Rural, Gujarat*. He was taken to *Government hospital Palsana* from where he was referred to *Vishwa Orthopaedic Hospital & Physiotherapy Centre, Modasa*. He was operated upon his left leg and after the accident was not able to walk, mount, climb or sit on his heels and thus, unable to drive a vehicle claiming 100% disability.

3. Learned counsel for the appellant/insurance company confines the challenge to the limited ground that the claimant had renewed his driving license after the accident, which would indicate that he was not incapacitated from performing his vocation as a driver. It is contended that the learned Commissioner erred in determination of 26% disability in left lower limb as loss of 100% earning capacity.

4. Learned counsel for the respondents, on the other hand, while seeking dismissal of the appeal, submits that as per the disability certificate placed before the learned Commissioner, disability was described as permanent and not likely to improve.

5. The claimant was stated to be aged 29 years at the time of the accident and was drawing salary @ Rs. 15,000/- per month plus Rs. 300/- food allowance per day. The truck owned by the employer was insured with a valid and subsisting policy for the period 12.03.2016 to 11.03.2017. Additional premium was also charged under EC Act. The employer



appeared and filed the written statement whereby admitting to the employer-employee relationship as well as the factum of accident having taken place. As the truck in question was also damaged, the insurance company paid the vehicle damage claim.

6. In the said backdrop of facts, insofar as the contention of the appellant regarding renewal of the driving license is concerned, this Court finds no merit in the same. Firstly, the said document was not placed before the learned Commissioner, nor was the claimant confronted with the same during the proceedings. Secondly, as per Section 15(1) of the Motor Vehicle Act, 1988, a medical certificate is required only where the applicant has attained the age of 40 years and seeks renewal of a transport vehicle licence. In the present case, the applicant was aged about 29 years at the time of accident and as per the document now relied upon by the insurance company, the applicant would be 35 years of age, there is no requirement of furnishing of a medical certificate as also noted in the decision of the Rajasthan High Court in National Insurance Company Limited vs. Rakesh Kumar Saini & Anr.¹ The said document was not placed on record in the claim proceedings before the learned Commissioner and further there is no clarity as to whether any medical certificate was furnished along with renewal application.

7. Furthermore, mere renewal of a driving licence does not ipso facto establish that the claimant was capable of performing his duties as a commercial driver. The nature of work of a truck driver involves prolonged driving, physical exertion and sustained mobility, and even if a person is able to drive for short durations, it cannot be equated with restoration of full



earning capacity.

8. Lastly, the assessment of loss of earning capacity is distinct from the percentage of physical disability and depends upon the nature of avocation of the injured. Reference may be made to Raj Kumar v. Ajay Kumar², wherein the Hon'ble Supreme Court held that functional disability must be assessed having regard to the work performed by the claimant.

9. It is also settled that an appeal under Section 30 of the EC Act lies only on a substantial question of law. The findings returned by the learned Commissioner on appreciation of evidence do not warrant interference unless shown to be perverse.

10. This Court is not inclined to interfere with the impugned order.

11. Accordingly, the appeal is dismissed.

(MANOJ KUMAR OHRI)
JUDGE

APRIL 10, 2026/pmc

¹ Decided on 21.07.2011 in S.B. Civil Misc. Appeal No.1534/2002

² (2011) 1 SCC 343