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

+ **FAO 46/2024 and CM APPL. 7588/2024**

**NEW INDIA ASSURANCE CO LTD**

**.....Appellant**

Through: Mrs.Kanchan Kaur Dhodi, Advocate  
versus

**IMRAN KHAN IMRAN ANR**

**.....Respondents**

Through: Mr.R.K. Nain, Mr.Daksh Nain and  
Mr.Chandan Prajapati, Advocates for respondent  
No.1

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**ORDER**

**20.05.2026**

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1. The present appeal, filed under Section 30 of the Employees' Compensation Act, 1923 (hereinafter referred to as the 'Act'), arises out of order dated 29.08.2023 passed by the learned Commissioner, Employees' Compensation, New Delhi passed in ECI/32/NW/20/290, *vide* which the injury claim filed by the claimant/respondent no.1 was allowed.
2. The brief facts are that the claimant, in his claim application, stated that he was employed as a driver on vehicle bearing No. NL-01AD-1350, a truck owned by respondent No.2. It is claimed that on 03.02.2020, during the course of his employment and while driving the said vehicle loaded with 'Gatta' from *Hardoi to Muzaffar Nagar*, the claimant met with an accident near *Pawti*, within the jurisdiction of Police Station *Haldaur*, District *Bijnor*, *Uttar Pradesh*. It was claimed that another vehicle coming from the opposite direction hit the claimant's vehicle, causing grievous injuries to the claimant, who remained trapped inside the cabin for some time and was



thereafter shifted to Life Line Hospital, *Bijnor* for treatment. It is also claimed that he suffered 100% loss of earning capacity on account of the injuries sustained in the accident.

3. Learned counsel for the appellant submits that the appellant is not liable for payment of compensation, interest or penalty. It is submitted that the disability certificate issued in favour of the claimant only records 31% permanent disability in relation to the right lower limb however, the learned Commissioner erroneously treated the same as resulting in 100% loss of earning capacity. It is further submitted that no documentary proof regarding employer-employee relationship was placed on record by the claimant and even the medical documents and disability certificate were not duly proved in accordance with law.

4. Learned counsel for claimant submits that the claimant had sustained grievous injuries during the course of and arising out of his employment as driver of the vehicle and, on account of the injuries suffered by him, he has been rendered incapable of performing his vocation as a driver, thereby resulting in complete loss of earning capacity.

5. I have heard learned counsel for the parties and perused the records.

6. Notably, respondent no.2, in its written statement, admitted that the claimant was employed as a driver on trip-to-trip basis and that the accident had occurred in relation to the vehicle. The appellant also placed on record the O.D. claim documents in which the claimant was shown as the driver of the vehicle at the time of the accident. In view of these materials, the learned Commissioner held that the employer-employee relationship and the occurrence of the accident during the course of employment stood sufficiently proved.



7. It is noted that the disability certificate issued by Dr. Baba Saheb Ambedkar Hospital has been placed on record, reflecting that the claimant suffered 31% permanent physical disability in relation to the right lower limb. The Assessment Form-B records that the claimant's standing balance, squatting and kneeling were affected, sensation was impaired, and there was amputation of the 3rd, 4th and 5th toes of the right foot.

The claimant was working as a driver and the injuries suffered by him had adversely affected his ability to perform the duties of driving a heavy vehicle. Considering the nature of his employment and the effect of the injuries on his mobility and functioning, the learned Commissioner held that the claimant had effectively suffered 100% loss of earning capacity for the purpose of his employment as a driver.

8. It is an admitted position on record that the offending vehicle bearing No. NL-01AD-1350 was insured with the appellant *vide* policy valid for the period from 22.02.2019 to 21.02.2020 and, therefore, the insurance policy was in force on the date of the accident i.e., 03.02.2020

9. The Supreme Court in Raj Kumar vs. Ajay Kumar<sup>1</sup>, wherein the Court summarized the relevant principles as under:

*“13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted*

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<sup>1</sup> (2011) 1 SCC 343



*from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.”*

10. It is apposite to note the scope of Section 30 of the EC Act, it is settled through a number of decisions that the scope of appeal under Section 30 is limited. Under the scheme of the EC Act, the Commissioner is the last authority on facts. Being a welfare legislation, the Parliament thought it fit to restrict appeal only to a substantial question of law.(CR:Golla Rajanna & Ors. v. Divisional manager & Anr.<sup>2</sup>).

11. The contention raised by the appellant with regard to the imposition of penalty, it is noted that the same was only at the stage of issuance of show cause notice calling upon the appellant as well as respondent no. 2 to explain as to why penalty be not imposed under of the EC Act and that no final adjudication regarding liability towards penalty had yet been made by the learned Commissioner.

12. Keeping in view of the settled position of law as well as the facts of the present case, the appellant has been unable to show that the impugned decision is perverse, without jurisdiction, or in violation of the principles of natural justice.

13. Consequently, the appeal, alongwith pending application, is dismissed and the impugned order is upheld.

**MANOJ KUMAR OHRI, J**

**MAY 20, 2026**  
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<sup>2</sup> (2017) 1 SCC 45