**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**FIRST APPEAL FROM ORDER No. - 4050 of 2011**

The Oriental Insurance Co. Ltd.

.....Appellant(s)

Versus

Ateeq Ahmad And Others

.....Respondent(s)

| | | |
|---|---|---|
| Counsel for Appellant(s) | : | Ajay Singh |
| Counsel for Respondent(s) | : | Vaibhav Kaushik |

**Court No. - 54**

**HON'BLE ANIL KUMAR-X, J.**

1. Heard Sri Ajay Singh, learned counsel for the appellant and Sri Sumit Singh, Advocate, holding brief of Sri Vaibhav Kaushik, learned counsel for the respondents.

2. This appeal has been preferred against the judgment and award dated 29.07.2011 passed by the Commissioner, Workmen's Compensation Act/Assistant Labour Commissioner, Rampur, in W.C.A. No. 15 of 2008 (Ateeq Ahmad Vs. Jabruddin and others), whereby compensation of Rs.1,97,712/- has been awarded in favour of the respondent-claimant.

3. Briefly stated, the respondent-claimant asserted in his claim petition that he was employed as a driver on Truck No. UP22 T-1311, which was owned by the opposite parties. He further stated that he had taken the said truck to a workshop for construction of its body. The mechanic of the workshop was engaged in constructing the body of the truck, and the respondent-claimant was also present there to supervise the work. During the course of the said work, a nail suddenly hit his eye, resulting in permanent impairment of vision. The learned Commissioner, after considering the issues framed and the evidence available on record, including the disability certificate indicating impairment of vision in the eye of the respondent-claimant, awarded compensation in his favour.

4. Learned counsel for the appellant submitted that the learned Commissioner had failed to properly appreciate the evidence available on record. The respondent-claimant had failed to establish the relationship of

employer and employee between the parties. It was further submitted that the learned Commissioner had relied upon the disability certificate without examining whether the disability mentioned therein had resulted in any functional disability affecting the earning capacity of the claimant. According to learned counsel, both these issues were material and required proper consideration on the basis of the evidence available on record. However, the learned Commissioner failed to appreciate the same in their proper perspective. Accordingly, the findings recorded by the learned Commissioner are not sustainable and are liable to be set aside.

5. Per contra, learned counsel for the respondents submitted that the respondent-claimant had duly established his case by adducing oral as well as documentary evidence. The disability certificate was produced before the learned Commissioner and was also duly proved through the statement of Dr. Swaraj Bhatnagar. The disability certificate as well as the deposition of the doctor established that the claimant had suffered 30% loss of vision in his left eye. Thus, according to learned counsel, the learned Commissioner had rightly awarded compensation and the appeal, being devoid of merit, is liable to be dismissed.

6. Heard learned counsel for the parties and perused the findings recorded by the learned Commissioner.

7. Upon consideration of the submissions advanced by learned counsel for the parties and the findings recorded by the learned Commissioner, this Court finds that the learned Commissioner has considered the issues raised before it and has appreciated the oral as well as documentary evidence available on record. The findings recorded by the learned Commissioner are based on the evidence available on record and do not suffer from any perversity or illegality warranting interference by this Court.

8. Apart from the above, it is well settled that an appeal under Section 30 of the Employees' Compensation Act, 1923 is maintainable only when a substantial question of law is involved. The grounds raised by the appellant essentially relate to the appreciation of evidence and the factual findings recorded by the learned Commissioner. No substantial question

of law arises for consideration in the present appeal. Therefore, the appeal is not maintainable under Section 30 of the Act.

9. Accordingly, the appeal is dismissed. The judgment and award dated 29.07.2011 passed by the learned Commissioner is hereby affirmed.

**(Anil Kumar-X,J.)**

**October 29, 2026**
Jaideep/-

Digitally signed by :-
JAIDEEP BANERJEE
High Court of Judicature at Allahabad