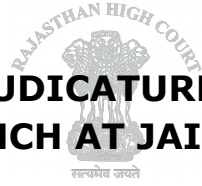




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Miscellaneous Appeal No. 2980/2017

Hdfc Ergo General Insurance Company Ltd. Through Branch Manager, Jaipur, Having Its Local Office At Office No. 2, Third Floor C-99, Singhvi Upasana Tower, Shubhash Marg, C-Scheme, Jaipur Through Its Constituted Attorney.

----Appellant

Versus

1. Mota Ram S/o Shri Uma Ram, R/o Khariya, Tehsil Deedwana, District Nagaur, Presently R/o Vill. Singrawat, Tehsil And District Sikar, Rajasthan.
2. Sharwan Ram S/o Shri Peetha Ram, R/o Vill. Singrawat Kalan, Tehsil Deedwana, District Nagaur, Rajasthan. Registered Owner Of Tractor No. Rj-37-Ra-3644

----Respondents

For Appellant(s) : Mr. Virendra Agrawal, Adv.

For Respondent(s) : Mr. Vinay Mathur, Adv. for claimant

HON'BLE MR. JUSTICE NARENDRA SINGH DHADDHA

Judgment

DATE OF JUDGMENT

03/04/2024

This Civil Misc. Appeal has been filed by the appellant-Insurance Company (for short 'the Insurance Company') u/s 30 of Workmen's Compensation Act, 1923 (for short, the Act of 1923) against the judgment dated 13.04.2017 passed by learned Workmen Compensation Commissioner, Sikar (Camp Alwar) in claim case No. E.C.C./N.F. 01/2014 titled as Mota Ram Vs. Sharwan Ram & Ors., whereby learned Commissioner has awarded a sum of Rs.3,26,331/- alongwith interest @ 12% P.A. from the date of incident in favour of the claimant-respondent No.1 (for short 'the claimant').



Learned counsel for the Insurance Company submits that learned Commissioner wrongly allowed the claim petition filed by the claimant. Learned counsel for the Insurance Company also submits that there was no existence of relationship of employee and employer between the claimant and owner of the offending vehicle. Learned counsel for the Insurance company also submits that insurance policy was issued only for the purpose of covering the risk of driver alone and the *kutti* machine attached thereto was neither registered nor insured with the Insurance Company. Hence, the Insurance Company cannot be burdened with the liability. Learned counsel for the Insurance company also submits that risk of any employee other than driver was not covered under the insurance policy. So, appeal be allowed and judgment dated 13.04.2017 passed by learned Commissioner be set aside.

At the outset, learned counsel for the claimant submits that no substantial question of law is involved in this appeal. The appeal has been submitted on the findings of facts. In support of his contentions, counsel for the claimant has placed reliance on the judgments delivered by the Hon'ble Apex Court in the cases of Golla Rajanna Etc. vs. The Divisional Manager And Anr. reported in 2017 (1) SCC 45 and North East Karnatka Transport Corporation Vs. Smt. Sujatha reported in 2019 (11) SCC 514.

Heard counsel for the parties and perused the impugned judgment including the documents available on the record.

In the considered opinion of this Court, the findings given by the learned Commissioner are based on sound appreciation of evidence and the same are not liable to be disturbed by this Court.



In the opinion of this Court also, the learned Commissioner is the last authority on facts as it has been held by the Hon'ble Supreme Court in the case of Golla Rajanna Etc. (supra):

"8. Section 30 of the Act provides for appeal to the High Court. To the extent, the provision reads as follows;

30. Appeals.-(1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:

- (a) an order awarding as compensation a lumpsum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;[(aa) an order awarding interest or penalty Under Section 4A;]
- (b) an order refusing to allow redemption of a half-monthly payment;
- (c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;
- (d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of Sub-section (2) of Section 12; or
- (e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and in the case of an order other than an order such as is referred to in Clause (b), unless the amount in dispute in the appeal is not less than three hundred rupees (Emphasis supplied)

10. Under the scheme of the Act, the workmen's Compensation Commissioner is the last authority on facts. The Parliament has thought it fit to restrict the scope of the appeal only to substantial question of law, being a welfare legislation. Unfortunately, the High Court has missed this crucial question of limited jurisdiction and has ventured to re-appreciate the evidence and recorded its own findings on percentage of disability for which also there is no basis. The whole exercise made





by the High Court is not within the competence of the High Court under Section 30 of the Act.

Similar view has been expressed by the Hon'ble Apex Court in the case of North East Karnataka Transport Corporation (supra):



"9. At the outset, we may take note of the fact, being a settled principle, that the question as to whether the employee met with an accident, whether the accident occurred during the course of employment, whether it arose out of an employment, how and in what manner the accident occurred, who was negligent in causing the accident, whether there existed any relationship of employee and employer, what was the age and monthly salary of the employee, how many are the dependents of the deceased employee, the extent of disability caused to the employee due to injuries suffered in an accident, whether there was any insurance coverage obtained by the employer to cover the incident etc. are some of the material issues which arise for the just decision of the Commissioner in a claim petition when an employee suffers any bodily injury or dies during the course of his employment and he/his LRs sue(s) his employer to claim compensation under the Act.

10. The aforementioned questions are essentially the questions of fact and, therefore, they are required to be proved with the aid of evidence. Once they are proved either way, the findings recorded thereon are regarded as the findings of fact.

11. The appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner lies only against the specific orders set out in clauses (a) to (e) of Section 30 of the Act with a further rider contained in the first proviso to the section that the appeal must involve substantial questions of law.

12. In other words, the appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner is not like a regular first appeal akin to Section 96 of the Code of Civil Procedure, 1908 which can be heard both on facts and law. The appellate



jurisdiction of the High Court to decide the appeal is confined only to examine the substantial questions of law arising in the case.

In "M/s Krishna Weaving Mills, Ajmer Vs. Smt. Chandra

Bhaga Devi wide of Mool Chand & Anr.", reported in 1985(1) WLN

455, this Court while dealing with Workmen's Compensation Act

has laid down law that unless there is a question of public

importance and there is no final interpretation available while the

substantial question of law is arising, the appeal under the

Workmen's Compensation Act cannot be entertained. Relevant

portion of the judgment reads as follows:-

"8. Moreover, under S. 30 of the Workmen Compensation Act only substantial question of law can be agitated. In the present case, I am convinced that there is no substantial question of law involved.

9. The question of public importance and question on which no final interpretation is available are known as substantial question of law. Even if this definition is further extended, it will have to bear in mind that there is vast difference between the question of law and substantial question of law. It is only when the question of law is not well settled and it is of importance, it would become a substantial questions of law."

It is a settled position of law that limited jurisdiction has been given to the High Court confined to the substantial question of law only and the High Court cannot venture and re-appreciate the evidence and finding of fact recorded on the evidence led by both the parties.

This Court finds no good ground to call for any interference on any of the factual findings. None of the factual findings are found to be either perverse or arbitrary or based on no evidence





or against any provision of law. This Court accordingly upholds these findings.

Since the appeal is not qualifying to have a substantial question of law, which is mandatory under Section 30 of the Workmen's Compensation Act, 1923, therefore, no interference is called for in this appeal and the same is dismissed.

All pending application(s), if any, also stand dismissed.

(NARENDRA SINGH DHADDHA),J

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