
(2008) 01 RAJ CK 0034

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 2611 of 2006

Ajmer Vidyut Vitran Nigam Ltd. and Another

APPELLANT

Vs

Shyochand

RESPONDENT

Date of Decision : 31-01-2008

Acts Referred:

Workmens Compensation Act, 1923 — Section 30

Citation : (2008) 2 WLN 309

Hon'ble Judges : Guman Singh, J

Bench : Single Bench

Judgement

Guman Singh, J.—Heard learned Counsel for the parties.

2. This appeal has been filed against the order dt. 03.01.2006 passed by the learned Commissioner, Workmen's Compensation, Jhunjhunu, whereby a sum of Rs. 1,91,760/- was awarded to the respondent claimant Shyochand with interest @ 12% from the date of accident that is to say on 07.06.2000 on account of the injury sustained due to electric shock while he was working as Helper Gr. II under the appellants on 33 KV GSS, Malsisar on 07.06.2000 whereby he sustained fracture in 7 ribs, his right hand was rendered useless, adversely affecting his mind and causing deficiencies of blood and thereby causing physical disability and had to take voluntary retirement as his working capacity was reduced by 75% as per the medical certificate. Learned Counsel for the appellants assailed the impugned findings of the Commissioner on the ground that the accident occurred on account of the negligence of the employee claimant and as such the appellants are not liable for the compensation under the Act. The other contention pertains to the nature of injury and the disability found by the Commissioner which has been assailed on the ground that it was not proved on what basis 75% disability was found to the respondent. It was further submitted that the claimant respondent had submitted an application for voluntary retirement on medical grounds earlier to the accident on medical grounds and as such the assessment of compensation does not commensurate with the disability

sustained and the claim petition was filed to pressurise the appellants to get his son employed in his place.

3. Learned Counsel for the respondent submits that the jurisdiction of this Court is limited to the question whether substantial question of law arises in the appeal and that the Court is not supposed to go into the factual aspect of the claim and award passed by the learned Commissioner.

4. At the very outset, it may be observed that u/s 30 of the Workmen Compensation Act, 1923, no appeal lies against the order unless substantial question of law is involved in the appeal. The matter pertaining to the negligence of the workman has been enquired into by the learned Commissioner and he has opined that the appellants made enquiry into the incident after three years of the incident and as such the Commissioner has arrived at the factual finding that the appellants failed to prove that accident occurred on account of negligence of the workman. This finding of fact is not required to be gone into by this Court in appeal.

5. Regarding the argument of the learned Counsel that the respondent was medically examined in the year 1998 and he was medically found unfit to discharge his duties on account of his fitness but it is revealed that no such certificate as alleged been placed before the Commissioner and as such this Court is not supposed to go into this aspect and enquire into the fact whether the claimant was already unfit at the time when he made application for VRS to the appellants in the year 1998. It is revealed that the learned Commissioner had accorded opportunity to both the parties to lead their evidence and on the basis of evidence led before him given the findings in favour of the respondent claimant awarding the compensation to the claimant respondent who sustained the injuries in the accident while he was in employment of the appellants.

6. Therefore, I do not find any impropriety or illegality in the award passed by the learned Commissioner. Hence the appeal is dismissed.