

(2006) 04 AHC CK 0010
In the Allahabad High Court

Employees State Insurance Corporation	APPELLANT
Vs	
Asgar Abbas Rizvi	RESPONDENT

Date of Decision : 25-04-2006

Acts Referred:

Employees State Insurance Act, 1948 — Section 82

Citation : (2006) 4 ACC 337

Hon'ble Judges : S.S. Kulshrestha, J

Bench : Single Bench

Judgement

S.S. Kulshrestha, J.—Heard the learned Counsel for the respondent and also perused the materials on record.

2. It is said that no substantial question of law is involved. Even at the time of admission of the appeal on 24.9.1997, no such substantial question of law was drawn. In order to facilitate disposal of this appeal, it may be mentioned that it is admitted case of the parties that Mr. Asgar Abbas Rizvi was under employment (labour) of M/s. Elgin Mills, Kfanpur. In the course of his duty, on 26.3.1982 he sustained eye injury. He was referred to the Medical Board on 3.4.1991 who opined it to be the injuries on the left eye but the loss of earning capacity was considered to be nill. Against the decision of the Medical Board, Appeal No. 117 of 1991 was preferred before the learned Judge, Employees Insurance Court, Kanpur. It was on the basis of admitted case of the parties with regard to sustaining of the injuries and also on the basis of evidence adduced the Court adjudicated 30% loss of the earning capacity. While admitting the appeal, no substantial question of law was formulated. This Court, u/s 82 of the Employees State Insurance Act, 1948 is not required to evaluate the evidence afresh. In the case of Employees Stale Insurance Corporation v. Ameer Hasan reported in 1980 (41) F.L.R. 224 it was held by Division Bench if this Court that for the partial loss of vision of one eye the employee is entitled under the Act, loss of 30% of the earning capacity. The observation made by this Court is as under:

The partial loss of vision of one eye would be covered by entry 32 and the total

loss of vision by entry 31 of the Second Schedule if the eye is a limb or a member of the human body and the aid of the Note can be taken in interpreting these entries. An eye is a member of the human body and where as person loses complete or permanent use thereof due to an injury, the same would be covered by entry 31 of the Second Schedule. Entry 32, embraces within its scope partial loss of vision of one eye.

3. In view of the aforesaid discussion, I do not find any justified and justifiable ground to interfere with the impugned order. In the result, this appeal is dismissed.