

(2006) 07 AHC CK 0053
In the Allahabad High Court

Employees State Insurance Corporation	Vs	APPELLANT
Parsu Ram		RESPONDENT

Date of Decision : 06-07-2006

Acts Referred:

Employees State Insurance Act, 1948 — Section 54A

Citation : (2007) 1 ACC 177

Hon'ble Judges : Barkat Ali Zaidi, J

Bench : Single Bench

Judgement

Barkat Ali Zaidi, J.—It is now 24 years since the respondent-employee at Kanpur, sustained a blunt injury in his right eye resulting in diminution of the vision and has still not been granted compensation.

2. It is not in dispute that the respondent-worker who was referred to an Eye Surgeon at L.L.R. Hospital, Kanpur on examination of his eyes (Government Hospital) had found that there was 6/36 loss of vision in the right eye as a result of that injury. The respondent worker was thereafter referred to the Medical Board for determination of question of disability but the Medical Board was of the opinion that there was no disability due to the aforesaid injury and in consequence whereof, no loss of earning capacity, provisionally or finally.

3. The respondent worker, challenged the aforesaid decision of the Board by filing an appeal as provided in Section 54A of Employees' State Insurance Act, 1948 and the E.S.I. Court reversed the view of the Medical Board, placing reliance on the report of the eye specialist and held that the employment injury suffered by the respondent-worker fell within the purview of Entry No. 32 of the Second Schedule of the E.S.I. Act and the worker was entitled to 30% loss of earning capacity.

4. This is how, the appellant E.S.I. Corporation has come up in this appeal before this Court.

5. Counsel for the parties have been heard.

6. The E.S.I. Court relied upon the report of the Eye Surgeon of the L.L.R. Hospital, Kanpur, which has mentioned 6/36 damage of vision in the left eye and on the basis thereof granted relief to the respondent-worker. The contention from the side of the appellant-corporation is that the Medical Board did not find any diminution of vision and the view of the Medical Board must be deemed to be final and should override the finding of the eye specialist of the L.L.R. Hospital, Kanpur.

7. The Act provides for appeal against the decision of the Medical Board even directly to the E.S.I. Court u/s 54-A of the Act. It is, therefore, for the Court to determine whether there was such injury to the worker which entitled to relief under the provisions of the Act. The Court, obviously, cannot have any material before it except the reports of the doctor, who examined the worker. In the instant case, the worker was examined initially by an Eye Surgeon at L.L.R. Hospital, Kanpur and doctor found at the time of examination, the vision of his left eye 6/36 while the vision of the other eye was 6/9, opining that the diminution of vision was due to the injury. The Trial Court relied, on the findings of the eye specialist of L.L.R. Hospital, Kanpur in preference to the view of the Medical Board.

8. In the circumstances as they are, there seems no sufficient reason to defer from the view taken by the E.S.I. Trial Court which has relied on the findings and the report of the eye specialist and has mentioned clear reasons to differ with the report of the medical Board. There is no reason to assume that the eye specialist of L.L.P. Hospital, Kanpur who examined the worker-respondent gave a report for extra medical considerations. In the instant case, therefore, it seems just and proper to endorse the findings of the learned E.S.I. Court.

9. It is unfortunate that an appeal in the matter was filed by the E.S.I. Corporation. It is hoped that in future, they will take more humane view.

10. The appeal is dismissed with costs which are fixed at Rs. 5,000.