

(1988) 01 AHC CK 0008
In the Allahabad High Court

Kashi Nath Prasad

APPELLANT

Vs

Tata Engineering and Locomotive Company and Others

RESPONDENT

Date of Decision : 21-01-1988

Acts Referred:

Workmens Compensation Act, 1923 — Section 30

Citation : (1988) 2 ACC 15

Hon'ble Judges : N.N. Mithal, J

Bench : Single Bench

Judgement

N.N. Mithal, J.—This is employer's appeal Section 30 of the Workmen Compensation Act against the order of the Workmen Compensation Commissioner, Gorakhpur awarding compensation to the workman for permanent total disablement of his right hand.

2. The facts are not in dispute. What has been contended is that according to the doctor's evidence there was only 50% reduction in the earning capacity of the workman while the Workmen Compensation Commissioner has awarded compensation for total disablement. Learned Counsel submitted that only palm and fingers of the right hand had been crushed which cannot result in total reduction of his earning capacity.

3. u/s 4 of the Act compensation which is to be awarded in cases of total permanent disablement and temporary disablement has been provided. In the case of permanent total disablement workman is to be granted compensation according to the table given in schedule 4 pertaining to respective age group. According to Section 4(c) where permanent partial disablement has resulted from the injury a different mode of computing compensation has been provided. Partial disablement and total disablement have also been defined in Section 2 of the Act. Partial disablement is disablement of a temporary nature while according to Section 2(e) total disablement means such disablement whether of a temporary or permanent nature as incapacitates a workman for all work which he was capable of performing at the time of accident resulting in such

disablement. It is not seriously disputed that the injury caused to the respondent was permanent and must be deemed to have resulted in total disablement because on that account he has become incapacitated for all work which he was capable of performing at the time of accident. The question of considering the reduction in earning capacity does not arise in cases covered by Clauses (a) and (b) of Section 4. Therefore, merely because a medical certificate has been filed by the respondent showing that the injury has resulted in reducing his earning capacity by 50% is of no consequence. The appellant in its own notice dated 2nd of Sept., 1977 terminated the services of the workmen on the ground that he has become incapacitated to perform his duty by itself goes to show that the injuries to the workman have resulted in his total permanent disability. In the circumstances, the workman was entitled to receive such compensation as was admissible to him u/s 4(b). The Workmen Compensation Commissioner has awarded a sum of Rs. 30,240/- after adjusting a sum of Rs. 9,700/- which had already been received by the Workman, order to pay the rest has been made. Interest at 6% has also been awarded. The order is in accordance with law and no error or illegality in the same could be pointed out by the learned Counsel for the appellant.

4. In the result the appeal fails and is accordingly dismissed with costs.