
(1986) 01 BOM CK 0047
In the Bombay High Court
Case No : F.A. No. 372 of 1978

Robin Products

APPELLANT

Vs

Shankar Tukaram Mali

RESPONDENT

Date of Decision : 31-01-1986

Acts Referred:

Workmens Compensation Act, 1923 — Section 4(1)

Citation : (1994) 3 LLJ 1151

Hon'ble Judges : V.V. Vaze, J

Bench : Single Bench

Advocate : Nitin Pradhan and S.S. Chitnis, for the Appellant; R.M. Nakhwa, for the Respondent

Final Decision : Partly Allowed

Judgement

V.V. Vaze, J.—Shankar Tukaram Mali was working in biscuit and confectionery factory of the respondent. His duties included pushing the dough in the machine and after the finished product comes out, cleaning the drums with a view to preparing the machine for new intake on the next day. Shankar had informed the respondent M/s. Robin Products that the safety arrangements of the machinery were not working properly and that necessary steps should be taken to repair the same. However, before it could be done the machine took its toll and Shankar lost the left thumb while cleaning the drums of the machine on 24.1.1977 which resulted in a 30% loss of his earning capacity. Shankar claimed compensation of Rs. 3,360/- and medical expenses from M/s. Robin Products which claim was granted by the Commissioner for Workmen's Compensation and Judge, Labour Court, Nasik. Hence the appeal.

2. The appellant had led stress on the fact that though Shankar had put his monthly emoluments at Rs. 300/- the pay sheet showed that he was getting only Rs. 155/- per month. Secondly, Shankar in his cross-examination had admitted that the employer was serving meals to him during the period of his illness and was also spending for medicines.

3. Assuming that Shankar's wages were only Rs. 155/- the compensation calculated on the basis of 30% loss of earning capacity would work out to Rs. 3,240/-. As regards medical benefits though Shankar had in the beginning denied that the employer was spending for the medical treatment he did admit when repeatedly cornered that the employer did spend for the medical treatment. However the exact amount spent by the employer being not known I feel that ends of justice would be met by awarding compensation of Rs. 4,000/- which would include Rs. 3,240/- for loss of earnings at 30% and the balance for other expenditure. The appeal succeeds partly and it is ordered that the employer shall pay to the applicant-workman Rs. 4,000/- instead of Rs. 5,400/- ordered by the learned Commissioner. I am informed that the entire amount of Rs. 5,400/- has already been deposited by the employer in the lower Court and it has probably been invested. It would not be equitable to make an apportionment of the interest that has accrued and hence it is ordered that the lower Court shall pay Rs. 4,000/- out of the deposited amount of Rs. 5,400/- together with all the interest if any that has accrued till date to the respondent-employee. The employer shall be allowed to withdraw the balance of the amount viz. Rs. 1,400/-. No order as to cases throughout.