

(2011) 04 AHC CK 0372
In the Allahabad High Court
Case No : Writ C No. 19216 of 2011

The Oriental Insurance Company Ltd.	APPELLANT
Vs	
Workmen Compensation Commissioner and Others	RESPONDENT

Date of Decision : 04-04-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 04 AHC CK 0372

Hon'ble Judges : Rajesh Dayal Khare, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajesh Dayal Khare, J.—Heard learned Counsel for the Petitioner and learned Standing Counsel, who has accepted notice on behalf of Respondent 1.

2. The present writ petition has been filed for issuing writ, order or direction in the nature of certiorari quashing the order dated 22.12.2010 passed by Workmen Compensation Commissioner (Respondent No. 1) in Workmen Compensation Case No. 101 of 2009, whereby Respondent workmen have been awarded compensation to the tune of Rs. 5,20,584/-along with interest @12% per annum, which was to be deposited before the Labour Commissioner, Moradabad Zone, Moradabad within 30 days of the said order and order dated 21.2.2011, whereby review application filed by the Petitioner has been rejected.

3. From the perusal of the record it reveals that the injured-claimant filed claimed petition being workmen compensation case No. 101 of 2009 claiming compensation of Rs. 6,00,000/-along with interest @15% per annum on the ground that he was employed as driver on the Mini Truck and on the instruction of his employer, he was driving the said Mini Truck from Moradabad to Rampur and the said Mini Truck over turned and met with an accident, due to which the workman sustained injuries and wase admitted in the Government Hospital, Moradabad. The claimant, at the time of accident, was aged about 25 years and

was earning Rs. 5,000/-per month. The owner/employer filed written statement admitting that the injured workman had sustained injuries during the course of his employment and it was specifically stated in his written statement that at the time of accident, Mini Truck was insured. The Petitioner Insurance Company filed its written statement denying the assertion made in the claim petition and stated that the vehicle was driving by the person, who was not having valid licence.

4. It is contended by the learned Counsel for the Petitioner that after passing the judgment and order dated 22.12.2010 one Mohar Singh along with investigator Praveen Kumar Saxena came to the Petitioner on 4.1.2011 and stated that the claimant/injured was not at all driver of the said Mini Truck and in fact he was labour and while he was doing his labour work in his house along with another labour Rakesh, he sustained injures. It is also stated in his affidavit that after incident one compromise also took place in between the claimant/injured and Mohar Singh, copy of which has been filed as annexure-2 to the writ petition. It is also contended that after coming to know about the aforesaid facts, review application was filed on the ground that claim was awarded on the basis of fraud, which has been rejected.

5. Learned Standing Counsel has contended that after passing the judgment by the Workmen Compensation Commissioner on 22.12.2010, said Mohar Singh filed affidavit on 4.11.2011 alleging that the injured workman was working as labourer and was not driving the aforesaid Mini Truck. It is, thus, contended that the affidavit was sworn after the judgment of Workmen Compensation Commissioner.

6. Learned Standing counsel further stated that the injured workman appeared before the Workmen Compensation Commissioner and had specifically stated that his signature/thumb impression was obtained by fraud and subsequently review application was rejected.

7. After hearing the learned Counsel for the parties and also perusing the averments made in the writ petition, this Court is of the opinion that the learned Counsel for the Petitioner could not point out any illegality in the orders impugned, which may warrant any interference by this Court in exercise of power under Article 226 of the Constitution of India.

8. Accordingly, the writ petition lacks merit and is dismissed. No orders as to cost.