
(2004) 12 DEL CK 0037

In the Delhi High Court

Case No : FAO 529 of 2003 and CM 1082 of 2003

U.S. Singhal

APPELLANT

Vs

Chandan Singh and Another

RESPONDENT

Date of Decision : 17-12-2004

Acts Referred:

Citation : (2004) 12 DEL CK 0037

Hon'ble Judges : R.S. Sodhi, J

Bench : Single Bench

Advocate : Pramod Kumar Singhal, for the Appellant; Yashpal Sharkar, for the Respondent

Judgement

R.S. Sodhi, J.—This appeal is directed against the order dated 5th May, 2003, of the Commissioner, under the Workmen's Compensation Act in WC-54/96, whereby the learned Commissioner has awarded compensation of Rs.1,37,348.15 together with interest @9% per annum.

2. The brief facts of the case, as has been noted by the Commissioner, are as under :

""The petitioner stated that he was working with the respondent No.1 as laborer/trolley puller and was getting Rs.1452/- per month Along with Rs.20/- as daily refreshment. He stated that on 18.10.1995 when he was pulling the trolley and Mistri and helper were sitting on the trolley and changing the street lights. At the same they received a great electric shock and the petitioner Along with other companions fell down and received grievous injuries. He stated that he was taken to Gautam Hospital and in that Hospital the Petitioner remained unconscious for few days in Intensive Care Unit and during the admission in that Hospital the doctors amputated his both hands to save his life and he was transferred to L.N.J.P. Hospital. He stated that he remained admitted there from 15.12.95 to 30.12.95 and was discharged on 30.12.95. He stated that in the Hospital he was declared 100% disabled person. He stated that he spent a sum

of Rs.60,000/- on his treatment. He stated that about the accident a case under Section 337 was registered with P.S. Saraswati Vihar vide FIR No. 690/95. He stated that the respondent No.1 paid five medical bills at the time of admission in Nursing Home. The petitioner stated that he sent legal notices to the respondent for paying the compensation but he did not get any amount from them. He requested the court to pass an award of Rs.5,51,600/- including medical expenses, conveyance, mental pain and agony. The petitioner Along with the application filed his photograph showing the amputation of two hand, photocopies of FIR, M.L.C., medical papers, bills, notices, etc.""

3. Counsel for the appellant submits that the workman was not his employee and Therefore, he is not liable to pay the compensation. He also submits that since no interest was demanded in the claim petition, nothing should have been awarded.

4. Counsel for the respondents submits that there was positive evidence before the Commissioner to show that the workman was employed with the contractor. Rajinder Singh and Devi Singh, whose statements are on record, have clearly stated that the injured was workman with the contractor at the time when the accident took place.

5. I have heard counsel for the parties and have gone through the order under challenge as also the material placed before me. From a perusal thereof, I find that Rajinder Singh and Devi Singh have categorically stated that the injured was an employee of the contractor and that there is nothing on record except the bald statement to the effect that the injured was not his employee. A question of fact having been determined by the Commissioner, which prima facie shows no infirmity, need not be interfered in the first appeal. I find no material on record to show that the injured was not workman in this case, rather there is positive evidence to show that he was a workman.

6. As regards question of interest, it is needless to say that the interest is one of the components of compensation, which is automatic. The rate of interest is the only thing which can be agitated. Having carefully considered the case, I find no grounds to interfere. FAO 529/2003 is dismissed. CM 1082/2003 also stands dismissed. Interim order, if any, stands vacated.