REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 11114-11119 OF 2016
(Arising out of S.L.P.(C) Nos. 6696-6701 of 2015)

GOLLA RAJANNA ETC. ETC. ... APPELLANT (S)

VERSUS

THE DIVISIONAL MANAGER
AND ANOTHER, ETC. ETC. ... RESPONDENT(S)

J U D G M E N T

KURIAN, J.:

Leave granted.

2. The appellants are aggrieved by the order passed by the High Court whereby the compensation awarded to them has been drastically reduced. The High Court re-appreciated the evidence and substituted its own views with that of the Workmen's Compensation Commissioner and made a fresh assesment.

3. By order dated 16.02.2009, the Labour Officer cum Workmen's Compensation Commissioner, Division No. II, Bellary passed the following order:

> "In considering the employment of the petitioners, documents produced before the court and the evidence of the doctor, considering the disablement decided by the doctor, and considering that the respondent No.2, failed to prove the allegations denied by the respondent No.2, I decide that the petitioner No.1 has suffered 35% of the disablement, the second petitioner has suffered 35% of the disablement, the third petitioner has suffered 35% of disablement, the 4th and 5th petitioners have suffered 40% of disablement each and 6th petitioner has suffered 35% of the disablement with subsequent loss of earnings and decided the above issue No.1 in favour of the petitioners."

4. Accordingly, the appellants were awarded the compensation based on their wages.

5. The Insurance Company challenged the order passed by the Workmen's Compensation Commissioner, under Section 30(1) of The Workmen's Compensation Act, 1923 (hereinafter referred to as "the Act") mainly on the ground that the injuries had not been proved before the Workmen's Compensation Commissioner, and therefore, the appellants were not entitled to the compensation as awarded by the Workmen's Compensation Commissioner. The High Court has clearly held that ... "the dispute is in respect of the nature of injuries suffered by the claimants".

6. The relevant consideration by the High Court appears at paragraph-9 of the impugned judgment:

> "9. … this Court is of the opinion that the accident appears to be true involving the offending lory, but, the injuries said to have suffered by the claimants is not established, in as much as, there is no document on record to substantiate the same, except the wound certificates issued by the Community Health Centre immediately after the accident. However, the said document also appears to be fabricated and fails in as much as, the X-ray stated in each of these certificate is not proved by any one of the petitioners before the Commissioner. Assuming for a moment that the X-ray of the claimant was taken, where it was taken and when it was taken is not forthcoming. Admittedly, the Community Health Centre, are not provided with x-ray machine so as to take the X-ray and assess the nature of injuries suffered by the claimants. In that view of the matter, this Court feel that the entire exercise by the petitioners before the Commissioner is to create a make-believe situation to show that indeed in the said accident said to have taken place on 15.8.2008 (*sic)* they have suffered serious injuries which was resulted in permanent disability to whole body of each ranging from 35% to 40% resulting in loss of earning capacity to equal percentage. In that view of the matter, this Court feel that the grounds urged by the Insurance Company in these appeals appears to be true and correct which is required to be upheld by this Court. "

7. The High Court went further to hold that on the basis of the available evidence, the disability would only be to the

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extent of 5% of the whole body resulting in 5% of the loss of earning capacity. Paragraph-10 of the impugned judgment deals with the issue, which reads as follows:

> "10. In that view of the matter, the common judgment and order passed by the Tribunal in these petitions before the Commissioner is required to be modified having regard to the nature of injuries and disability suffered by the claimants due to the accident. Accordingly, this Court holds that all the petitioners before the Tribunal have suffered disability to the extent of 5% to the whole body resulting in 5% loss of earning capacity."

8. Accordingly, the compensation has been reworked. Thus, aggrieved, the appellants are before this Court.

9. Section 30 of the Act provides for appeals to the High Court. To the extent, the provision reads as follows:

> "**30. Appeals.**-(1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely:-
>
> (a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum;
>
> [(aa) an order awarding interest or penalty under section 4A;]
>
> (b) an order refusing to allow redemption of a half-monthly payment;

(c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant;

(d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub- section (2) of section 12; or

(e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions:

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than three hundred rupees:"

(Emphasis supplied)

10. The Workmen's Compensation Commissioner, having regard to the evidence, had returned a finding on the nature of injury and the percentage of disability. It is purely a question of fact. There is no case for the insurance company that the finding is based on no evidence at all or that it is perverse. Under Section 4(1)(c)(ii) of the Act, the percentage of permanent disability needs to be assessed only by a qualified medical practitioner. There is no case for the respondents that the doctor who issued the disability certificate is not a qualified medical practitioner, as defined under the Act. Thus, the

Workmen's Compensation Commissioner has passed the order based on the certificate of disability issued by the doctor and which has been duly proved before the Workmen's Compensation Commissioner.

11. Under the scheme of the Act, the Workmen's Compensation Commissioner is the last authority on facts. The Parliament has thought it fit to restrict the scope of the appeal only to substantial questions of law, being a welfare legislation. Unfortunately, the High Court has missed this crucial question of limited jurisdiction and has ventured to re-appreciate the evidence and recorded its own findings on percentage of disability for which also there is no basis. The whole exercise made by the High Court is not within the competence of the High Court under Section 30 of the Act.

12. Accordingly, the appeals are allowed. The impugned common judgment passed by the High Court is set aside. The order dated 16.02.2009 of the Labour Officer cum Workmen's Compensation Commissioner, Division No. II, Bellary in W.C.A. Nos. 229/2008 to 234/2008 is restored.

13. There shall be no orders as to costs.

.....J.
(KURIAN JOSEPH)

.....J.
(ROHINTON FALI NARIMAN)

New Delhi;
November 23, 2016.