

(2002) 01 JH CK 0005

Jharkhand High Court

Case No: Appeal from Original Order No. 458 of 1993 (R)

National Insurance Company
Ltd.

APPELLANT

Vs

Bishun Sao and Another

RESPONDENT

Date of Decision: Jan. 29, 2002

Acts Referred:

- Workmens Compensation Act, 1923 - Section 3, 4(1)

Citation: (2003) 2 ACC 652 : (2003) 1 ACC 299

Hon'ble Judges: Hari Shankar Prasad, J; Gurusharan Sharma, J

Bench: Division Bench

Advocate: A.K. Sahani, for the Appellant; Delip Jerath and None, for the Respondent

Final Decision: Dismissed

Judgement

1. Bishun Sao, son of late Hira Sao of Chatra filed Workmen Compensation Case No. 21 of 1992 for compensation under the provisions of the Workmen's Compensation Act, 1923 (hereinafter referred to as "the Act").

2. He was employed as driver of the bus (BR-2H-5893), owned by one Dineshwar Sharma of Gaya. On 5.1.1992, while on duty, he sustained injury, when another bus known as "Ranjan Bus" dashed his bus. On account of aforesaid injury his left femur-bone got fractured and he became permanently disable.

3. According to Medical Certificate of doctor he became incapable of working and lost his efficiency to work to the extent of 60%.

4. The claimant's monthly wage was Rs. 1650/- and according to doctor's report he was 30 years old at the time of accident.

5. In the claim case, both owner of bus (BR-2H-5893) as well as its insurer, namely. National Insurance Company were impleaded as parties.

6. The owner of bus appeared, but neither filed written statement nor contested the case.

7. The Insurance Company filed written statement and contested the case. In the absence of any evidence to the contrary Commissioner, Workmen's compensation accepted monthly wage of injured driver at Rs. 1650/-.

8. A Medical Certificate dated 16.9.1992 granted by Dr. M.F. Rahman of Gaya was brought on record. The doctor assessed his age at 30 years and reported him incapable of working. He had lost his efficiency of working to the extent of 60%.

9. u/s 4 of the Act, total amount of compensation at Rs. 62,394/-was calculated to be paid to the claimant.

10. The Insurance Company did not challenge genuineness of said Medical Certificate dated 16.9.1992. Appellant's counsel submitted that procedure as laid down under the Act and the Rules were not followed by the Commissioner and amount of compensation was not calculated as per the provisions of Section 4(1)(d) of the Act. In our opinion there is no substance in the aforesaid submission. Provision of Section 4(1)(d) was not applicable in the present case.

11. We find no reason to interfere with the impugned order/award. There is no merit in this appeal. It is accordingly, dismissed.