

(2009) 08 JH CK 0023
Jharkhand High Court
Case No: M.A. No. 176 of 2000 (R)

Hindustan Copper Corporation

APPELLANT

Vs

Sanjay Ghosal

RESPONDENT

Date of Decision: Aug. 10, 2009

Acts Referred:

- Workmens Compensation Act, 1923 - Section 30

Citation: (2011) ACJ 612

Hon'ble Judges: Sushil Harkauli, J; Jaya Roy, J

Bench: Division Bench

Final Decision: Allowed

Judgement

Sushil Harkauli and Jaya Roy, JJ.

We have heard the learned Counsel for the Appellant. The case has been called out but the learned Counsel for the Respondent has remained absent even though his name is shown in the cause list.

2. This appeal has been filed u/s 30 of the Workmen's Compensation Act against the order dated 8.8.2000, passed by the Workmen's Compensation Commissioner, Jamshedpur. The brief facts are that on 6.7.1993, the claimant met with an accident causing some injury. He was treated at the hospital of the employer and was paid salary during the period of treatment. After the treatment he joined back services with the Appellant employer and continued in the service for some time after which he resigned and joined another employer and after joining the new service the claimant preferred the claim in question on 16.11.1998. Under the law the claim should have been preferred within two years of the accident. The claim was obviously highly time-barred. Condonation of delay was sought and was condoned by a separate order dated 22.10.1999, a copy of which has been enclosed with this appeal. The delay has been condoned on a very flimsy ground, namely, a letter dated 3.6.1998, by which the employer is alleged to have refused to honour the

claim. Apparently the limitation is from the date of accident and not from the date of refusal of the claim.

3. Again apparently, the alleged injury appears to have been a minor injury not even resulting in any surgery and not even resulting in any fracture. The Workmen's Compensation Commissioner has applied serial No. 19 of Schedule I holding it to be a case of partial disablement. The finding is also not sustainable on the facts found by the Commissioner itself.

4. While the cause of claimant under the Act must be liberally examined in favour of the workman, but equally, frivolous and fictitious claims by workman require to be discouraged so that there is no misuse of the law.

5. Having regard to the totality of facts, we are of the opinion that the claim should not have been accepted not only on the ground of limitation but also on the ground of its being too minor to come within serial No. 19 of Schedule I.

6. The appeal is allowed. The impugned award is set aside. The employer will be at liberty to recover the amount deposited, without any further interest thereon, from the workman.