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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO 493/2016 and CM APPL. 37073/2016**

NATIONAL INSURANCE CO LTDAppellant

Through: Mr. Pankaj Seth, Advocate

versus

YASHPAL & ORSRespondents

Through: Mr. Sameer Nandwani, Advocate for
respondent No.1

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **23.07.2026**

1. The present appeal under Section 30 of the Employee's Compensation Act, 1923 (hereinafter referred to as the 'Act') has been preferred by the appellant-Insurance Company assailing the Award dated 28.04.2016 passed by the learned Commissioner, Employees' Compensation, Delhi in Case No. WC/113/NW/11/1175 titled Yashpal v. Ram Pukar Shah & Ors., whereby compensation of Rs. 7,86,492/- along with interest @ 12% per annum with effect from 22.07.2010 came to be awarded in favour of respondent No.1/claimant with a direction upon the appellant to satisfy the Award.
2. Briefly stated, respondent No.1/claimant pleaded before the learned Commissioner that he was employed as a Supervisor with respondent No.3. On 22.06.2010, while working in Bhalswa, Delhi, he had gone for lunch after completing the work assigned to him. During the said time, an iron rod being carried by a mobile crane owned by respondent No.1 fell upon him,



resulting in grievous injuries. The claimant remained admitted in the hospital for a considerable period and ultimately suffered amputation of his left leg. Alleging that the injuries were sustained during the course of and arising out of his employment, the claimant instituted proceedings under the Act seeking compensation.

3. The respondents contested the claim by filing their respective written statements. Upon completion of pleadings, the learned Commissioner framed, inter alia, the following issues:

(i) Whether the accident occurred during the course of and arising out of employment?

(ii) If so, to what amount of compensation is the claimant entitled and from whom?

4. Upon appreciation of the pleadings, oral and documentary evidence led by the parties, the learned Commissioner held the claimant entitled to compensation by taking his monthly wages as Rs. 6,000/-, assessing the loss of earning capacity at 75% and applying the relevant factor prescribed under the Act. Consequently, compensation of Rs. 7,86,492/- along with interest @12% per annum was awarded, with liability fastened upon the appellant-Insurance Company.

5. Learned counsel appearing on behalf of the appellant submitted that the impugned Award suffers from serious legal infirmities. It was contended that there existed no employer-employee relationship between respondent No.1/claimant and the insured-owner of the crane. It was further submitted that the learned Commissioner failed to return any finding on Issue No.1 relating to whether the accident arose out of and during the course of employment. The appellant further assailed the assessment of 75% loss of



earning capacity on the ground that the disability certificate was not proved. It was also urged that the claimant was employed as a Supervisor and was performing supervisory/managerial duties and, therefore, did not fall within the definition of an "employee" under Section 2(dd) of the Act. Additionally, it was contended that the accident occurred during the claimant's lunch break and had no nexus with his employment. Lastly, challenge was laid to the assessment of monthly wages and the award of interest.

6. *Per contra*, learned counsel appearing on behalf of respondent No.1 supported the impugned Award and submitted that the findings recorded by the learned Commissioner are based on proper appreciation of the evidence available on record. It was further submitted that no substantial question of law arises for consideration under Section 30 of the Act.

7. I have heard learned counsel for the parties and perused the record.

8. Before advertng to the rival submissions, it is apposite to note that an appeal under Section 30 of the Act lies only on a substantial question of law. Findings of fact recorded by the Commissioner upon appreciation of the evidence are ordinarily not liable to be interfered with unless shown to be perverse, based on no evidence or suffering from patent illegality. Re-appreciation of evidence is outside the scope of appellate jurisdiction under Section 30 of the Act.

9. The principal contention urged on behalf of the appellant is that the learned Commissioner failed to return a finding on Issue No.1, namely, whether the accident arose out of and in the course of the claimant's employment. This contention deserves to be rejected. A reading of the impugned Award demonstrates that the learned Commissioner has



considered the pleadings and evidence adduced by the parties and has accepted the claimant's case that he sustained injuries during the course of his employment at the construction site. Equally untenable is the contention that the claimant, being employed as a Supervisor, was not an "employee" within the meaning of Section 2(dd) of the Act. The mere designation assigned to a workman is not conclusive. What is relevant is the nature of duties actually discharged. Apart from the bald plea taken in the written statement, no material has been brought on record to establish that the claimant was discharging managerial or administrative functions so as to exclude him from the purview of the Act. The learned Commissioner has accepted the evidence that the claimant was engaged at the construction site and suffered injuries during the course of such employment. This finding being one of fact does not warrant interference in the present appeal.

10. The submission that the accident occurred during the claimant's lunch break and, therefore, did not arise out of and in the course of employment is equally without merit. The accident admittedly occurred at the work site while the claimant was present there in connection with his employment. A temporary break for taking meals does not, by itself, sever the nexus between employment and the accident. The learned Commissioner rightly held the accident to have arisen out of and during the course of employment.

11. The appellant has also questioned the fastening of liability upon it by contending that there was no employer-employee relationship between the claimant and the insured-owner of the crane. This submission cannot be accepted. The claim itself proceeded on the basis that respondent No.3 was the employer of the claimant, respondent No.1 was the owner of the offending crane and the appellant was its insurer. The appellant has neither



established any breach of the policy conditions nor shown any bar disentitling the claimant from recovering compensation from the insurer. No substantial question of law arises on this aspect.

12. The next contention pertains to the assessment of loss of earning capacity. The record reveals that the claimant suffered amputation of his left leg in the accident. The disability certificate issued by the competent Medical Board assessed his permanent disability at 75%. Having regard to the nature of injuries suffered by the claimant, the learned Commissioner accepted the medical evidence and assessed the loss of earning capacity accordingly. The appellant has not been able to demonstrate that the said finding is either unsupported by evidence or suffers from perversity.

13. The reliance placed by the appellant on the decision of the Supreme Court in Raj Kumar v. Ajay Kumar¹, is of no assistance in the facts of the present case. The said decision arose in proceedings under the Motor Vehicles Act, whereas the present case is governed by the provisions of the Employee's Compensation Act. The learned Commissioner has computed compensation in accordance with the statutory scheme contained in the Act after appreciating the evidence on record. No ground for interference is made out.

14. Having considered the submissions advanced on behalf of the appellant, this Court is of the considered opinion that none of the grounds urged give rise to any substantial question of law warranting interference with the impugned Award. The findings recorded by the learned Commissioner are based on appreciation of the evidence available on record and cannot be said to suffer from perversity or any jurisdictional error.



15. In view of the foregoing discussion, this Court finds no infirmity, illegality or perversity in the Award dated 28.04.2016 passed by the learned Commissioner, Employee's Compensation, Delhi warranting interference in exercise of appellate jurisdiction under Section 30 of the Act.

16. Consequently, the appeal is dismissed.

17. Pending application(s), if any, also stand disposed of.

18. The amount lying deposited before the learned Commissioner/Registry, together with the interest accrued thereon, if any, be released to respondent No.1/claimant in accordance with law.

MANOJ KUMAR OHRI, J

JULY 23, 2026

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¹ (2011) 1 SCC 343