Employees State Insurance Corporation vs Ameer Hasan on 5 September, 1980

Equivalent citations: AIR1981SC174, (1981)ILLJ164SC, 1980SUPP(1)SCC334, 1980(12)UJ811(SC), AIR 1981 SUPREME COURT 174(1), 1980 (1) LABLJ 164, (1981) 1 SCWR 170, 1981 LAWYER 13 15, (1981) 1 LABLJ 164, 1980 UJ (SC) 811, 1980 (1) SCWR 170, 1980 (13) LAWYER 15, 1980 SCC (SUPP) 334, 1981 SCC (L&S) 256

Author: D.A. Desai

Bench: D.A. Desai, E.S. Venkataramiah, P.S. Kailasam

ORDER

D.A. Desai, J.

1. While we are all agreed that this special leave petition mast be dismissed, it is time to express my distress on the frittering away or hard earned money of workmen by a Corporation whose principal source of income is workman's contribution, by undertaking futile, fruitless and ill advised litigation. Such exercise in futility by the Corporation presents an irreconcilable paradox in as much as the poor workman is being fought by a nightly Corporation even though the workman has to fend for himself and the Corporation fights unprincipled litigation at the cost of the very workman.

2. To illustrate this, a few facts may be stated. The respondent work-man was employed in M/s. Elgin Mills No. 1 an industrial undertaking to which the provisions of the Employees State Insurance Act, 1948 (Act for short) apply. Petitioner corporation was set up to implement the Act Amongst: various objects for which the Corporation was set up, the principal one was to provide for certain benefits to employees in case of sickness, maternity and employment injury etc. The main, if not the only source of funds of the Corporation, would be the contribution of workman deducted from their bard earned and meager salary month to month to which employer's contribution it added (see Section 39) Respondent workman while working suffered an injury to his eye. The Medical Appellate Tribunal constituted under Regulation 76 of the Regulations enacted by the petitioner Corporation gave an expert opinion that the respondent has suffered loss in his earning capacity on account of injury to the eye. The loss assessed by the Medical Appellate Tribunal according to the respondent was not correct with the result that the respondent approached the Court set up under the Act styled as Employees Insurance Court for assessing his loss. The Court under the Act after hearing both the sides and taking evidence of experts adjudicated the loss of earning capacity suffered by the respondent to the extent of 30%. This was purely a finding a fact and wholly covered by Entry 32 in Part II of Second Schedule to the Act which reads as under:

S No. Description of Injury Percentage of loss of earning capacity.

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32 Loss of vision of one eye without complications or dis- 30 figurement of eye-ball, the other being normal.

An obviously correct decision was challenged by the Corporation by way of an appeal to the High Court. It may be recalled here that the decision of the Court set up under the Act can be challenged by way of an appeal to the High Court is provided by Sub-section (2) of Section 82 of the Act if the appeal involves a substantial question of law. Even with the aid of a magnifying glass and a powerful microscope 1 could not find any substantial point of law involved fa this appeal which the Corporation carried to the High Court. The High Court by an elaborate judgment held that the decision of the Court was correct on all points and affirmed the decision.

3. What more justice did the corporation seek ? Save except to satisfy its own ego it carried the matter to this Court by way of the pretend petition seeking special leave against the decision of the High Court.

4. An attempt was made to urge that there was some conflict of decision in the view taken by the Calcutta High Court and the view taken by the Allahabad High Court. The judgment under appeal has considered the Calcutta judgment which is unfavourable to the workman. Such minor conflicts need not provide a fruitful grouted to the Corporation to rush to this Court. One cannot appreciate this too legalistic approach in the name of some conflict in decisions to force a workman whose misfortune was that be was govern 3d by the Act end a beneficiary of the beneficent provisions of the Act to be dragged to this Court to fight for a meager compensation with his own founds against a powerful corporation trying to thwart his claim with the funds obtained from the very workman. The glaring paradox is that the workman suffers deduction from his wages so that the Corporation can fight him with his own money.This has led to mounting disaffection amongst industrial workman against the Corporation. What faith the workman will have to in the Corporation set up to ameliorate his re her y multiplying it by appeal to Court after Court compelling the workman to follow in the footsteps of the Corporation to save his meagre benefit? A time has come to cry a halt to this litigious mentality on the part of public Corporations set up to achieve the goals enumerated in the Constitution This approach is destructive of the purpose which corporation was set up. What then is the difference between a private employer who was liable for compensation coder Workman's Compensation Act and a public sector Corporation set up to replace the private employer for providing the much needed medical relief ! In fact such an approach needs to be disapproved and that is why a speaking order.

5. I agree that the special leave petition be dismissed.