# Shanjan Chandra Mandal v Worldwide Resources Trading & Building Services Pte Ltd [2001] SGHC 213

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| **Case Number** | : DAC 23/2001 |
| **Decision Date** | : 06 August 2001 |
| **Tribunal/Court** | : High Court |
| **Coram** | : Choo Han Teck JC |
| **Counsel Name(s)** | : Mohd Mohideen [Yeo Perumal Mohideen & Partners] for the appellant; Tan Chee Kiong [Seah Leong & Partners] for the repondent |
| **Parties** | : Shanjan Chandra Mandal — Worldwide Resources Trading & Building Services Pte Ltd |

## JUDGMENT:

### Grounds of Decision

1. The appellant was a painter employed by the respondent. A notice of accident was given by the respondent on 31 July 1998 informing the Commissioner for Labour that the appellant suffered injury in an accident. The notice did not indicate whether the injury occurred in the course of employment but gave the date of the accident as 15 April 1998. This date was not in dispute. The injury complained of was a fracture of the elbow. The appellant had his injury examined by a doctor at the Tan Tock Seng Hospital about the 21 or 22 April 1998, that is, a week after the date of the alleged accident.

2. An inquiry was conducted by the Commissioner for Labour and an assessment of compensation was made on 23 July 1999 awarding a sum of $10,886.40 for the injury. The appellant and respondent both objected to the assessment under s 25(1) of the Workmen's Compensation Act, Ch 354.

3. Consequent upon the objections, a hearing was held by the Commissioner for Labour over a total of ten days between January and June 2000. At the conclusion of the hearing the Commissioner for Labour found that the appellant's injury did not arise in the course of employment and therefore dismissed his claim. The appellant appealed before me against that dismissal.

4. Mr. Mohideen appeared on behalf of the appellant and raised two grounds of appeal. First, he submitted that the Commissioner for Labour had no jurisdiction to conduct the hearing on the ground that liability had already been determined. He argued that when a notice of assessment has been served, the issue of liability is closed and that a dissatisfied employer can only resort to an appeal on the issue of quantum to the High Court.

5. It is useful to set out the relevant provisions under the Workmen's Compensation Act. The first relevant provision is s 24, sub-ss (1) to (3):

> "(1) Subject to the provisions of this Act, the Commissioner shall have power to assess and make an order on the amount of compensation payable to any person on any application made by or on behalf of that person.
>
> (2) The Commissioner shall cause to be served on the employer and the person claiming compensation personally or by registered post a notice stating the amount of the compensation payable in accordance with the assessment made by the Commissioner under subsection (1).
>
> (3) If no objection is received by the Commissioner within 2 weeks of the service

of the notice under subsection

(2), the assessment of compensation made by the Commissioner -

(a) shall be deemed to have been agreed upon by the employer and the person claiming compensation; and (b) shall have the effect of an order under section 25(2) but no appeal shall lie against such an order." 6. The Notice of Assessment dated 17 August 1999 was issued by the Commissioner for Labour under this section. The parties were, for their own reasons, unhappy with the assessment. The appellant because he felt that the amount awarded was too low, and the respondent because they felt that the accident did not occur in the course of employment. They lodged an objection each against this Notice of Assessment. The objections were lodged pursuant to s 25. The relevant subsections are (1) and (2):-

"(1) If any employer or person claiming compensation objects to the notice of assessment of compensation issued by the Commissioner under section 24, he may, within 14 days of the service of the notice of assessment, give notice of his objection in writing to the Commissioner stating precisely the grounds of his objection.

(1A) …

(2) On receipt of the notice of objection referred to in subsection (1), the Commissioner shall as soon as practicable conduct a hearing of the case and may hand down a decision accordingly and in pursuance of that decision make such order for the payment of compensation as he thinks just."

7. To further support his argument that the Commissioner for Labour has no power to inquire into liability at this stage, Mr. Mohideen drew a distinction between a "nil assessment" and a computed assessment in which a figure is given as compensation. He says that in the case of the latter, the issue of liability would have been determined but not in the case of the former.

8. I do not accept this interpretation of the effect of s 25. A plain reading of s 25 does not permit a construction of this nature and I must agree with Mr. Tan for the respondent that the same provision cannot be interpreted one way for the appellant and another for the respondent. If the Commissioner for Labour finds that there was no accident or that it did not occur in the course of employment he would not be wrong to record a "nil assessment". In that situation, the workman would be entitled to challenge the finding by lodging an objection under s 25(1) of the Act. Such an objection is clearly an objection as to the issue of liability. By the same token, the employer must similarly be entitled to challenge a finding on liability when the Commissioner for Labour has made an assessment. Section 25 expressly permits both parties to lodge an objection after a notice of assessment has been issued. There is nothing in that provision which implies that the employer's objection can only be in respect of quantum. It is true that the employer would have indicated in his notice of accident that the injury did not occur in the course of work, but very often, there may not be time to make a proper investigation. There is no other avenue for a formal inquiry into the question of liability other than s 25(1). Therefore, his omission in this respect here cannot be read as an admission that the accident occurred in the course of employment.

9. I now come to Mr. Mohideen's second point, that is, his contention that the evidence does not justify the tribunal's conclusion that the injury of the appellant did not arise in the course of work.

10. Counsel referred to alleged acts of admission by the employer such as paying for the medical fees of the appellant. He also sought to explain the evidence of some of the witnesses whom the tribunal regarded as unreliable.

11. The tribunal accepted the employers' evidence that they paid the medical fees because the Workmen's Compensation Department wrote to them and asked them to pay. The appellant was engaged as their employee and in these circumstances I do not think that the mere payment of medical fees arising from the workman's injury ought to be construed as an admission.

12. The tribunal in its detailed grounds of decision appears to have considered all available evidence thoroughly and evaluated them in the way a finder of fact ought to do. The basic statements from both sides were tested for their inherent credibility; the evidence was then considered in respect of contradictions and corroboration. The makers' behaviour and conduct as witnesses were then scrutinised to enable the tribunal's conclusion as to which version was more probable. Consequently, a finding of fact made in this way can only be challenged on the clearest evidence of error. There is none that was plain to me. The employers had, in my view, adequately put their case to the appellant in cross-examination. The omission to put to him that the injury arose from a fight or some other cause in this case was, therefore, not fatal. The point they made to the appellant was that the injury did not arise at work. It was not necessary for the employer to prove that the injury arose in any other specific way.

13. For the reasons above, the appeal was dismissed.

Sgd:

Choo Han Teck
Judicial Commissioner