

NATIONAL INSURANCE CO. LTD.

v.

GULAB NABI AND ANR.

(Civil Appeal No. 4629 of 2008)

JULY 24, 2008

**[DR. ARIJIT PASAYAT AND DR. MUKUNDKAM
SHARMA, JJ.]**

Judgment/Order – Reasoned order – Requirement of – Summary dismissal of appeal by High Court – Challenge to – Held: Reasons introduce clarity in an order – High Court should have given reasoned order, indicative of its application of mind – More so, appeal not dealt with properly, when it raised substantial question of law – Thus, order of High Court set aside – Matter remitted to High Court for fresh consideration – Workmen’s Compensation Act, 1928 – s. 30.

Under the Workmen’s Compensation Act, 1928, the Commissioner awarded compensation to respondent no. 1 and directed the appellant-insurance company to make the payment. Appellant challenged the award by filing appeal u/s 30 of the Act. High Court dismissed the appeal summarily. Hence, the present appeal.

Allowing the appeal and remitting the matter to High Court, the Court

HELD: 1.1 In the instant case, the question for consideration by the High Court was whether the Insurance Company has a liability and, if so, what is the quantum. There is no suitable evidence so far as income of the deceased is concerned. Non-application of mind is clear from the fact that since the State was not a party, the question of hearing the counsel for the State did not arise. Therefore, the order was passed without any application of mind. The order is also non-reasoned. [Paras 6 and 7] [317-E,F,G]

A 1.2 Reasons introduce clarity in an order. On plain-
est consideration of justice, the High Court ought to have
set forth its reasons, howsoever brief, in its order indica-
tive of an application of its mind, all the more when its
order is amenable to further avenue of challenge. Further-
B more, the manner in which the appeal was dismissed is
not the proper course while dealing with the appeal when
it raised substantial question of law. Thus, the order of
the High Court is set aside. The matter is remitted to it for
fresh consideration in accordance with law. [Paras 8, 10
and 11] [317-H, 318-A,E,F,G]

C *Breen v. Amalgamated Engg. Union* 1971 (1) All ER
1148; *Alexander Machinery (Dudley) Ltd. v. Crabtree* 1974
ICR 120 (NIRC) – referred to.

Case Law Reference

D 1971 (1) All ER 1148 Referred to. Para 9

1974 ICR 120 (NIRC) Referred to. Para 9

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E From the final Judgment and Order dated 30.3.2008 of
the High Court of Judicature at Allahabad in First Appeal from
Order No. 836 of 2006

M.K. Dua, Kishore Rawat and Dhiraj for the Appellant.

F The Judgment of the Court was delivered by

Dr. ARIJIT PASAYAT, J. 1. Leave granted.

G 2. Challenge in this appeal is to the order passed by a
Division Bench of the Allahabad High Court dismissing the ap-
peal filed by the appellant summarily.

H 3. The appeal was filed under Section 30 of the Workmen's
Compensation Act, 1928 (in short the 'Act'). The primary stand
taken by the appellant was that the claimant had not established
the employer employee relationship so far as the insured de-

ceased is concerned. It was also pointed out that there is no evidence to show that the deceased had sustained injuries under the employment and in the course of employment of the deceased insured. A

4. A Claim Petition was filed under Section 4 of the Act against owner of the offending vehicle and the appellant-National Insurance Co. The Commissioner directed payment of Rs.2,68,800/- to respondent No.1 along with interest @12%. In terms of Section 20 of the Act, the appellant-National Insurance Company was directed for payment to respondent No.1. The award made by the Commissioner was questioned before the High Court in an appeal which came to be dismissed summarily in the following manner: B C

“Heard learned counsel for the appellant and learned Standing Counsel for the State.

The appeal has got no force. D

The appeal is dismissed.”

5. Learned counsel for the appellant submitted that it was not a case where no substantial question of law is involved. In fact, the acceptability of the evidence in view of various concessions made by the claimant has been completely lost sight by the High Court. E

6. There is no appearance on behalf of respondents. As rightly contended by learned counsel for the appellant, the question whether the Insurance Company has a liability and, if so, what is the quantum was under consideration by the High Court. There is no suitable evidence so far as income of the deceased is concerned. F

7. Non-application of mind is clear from the fact that since the State was not a party, the question of hearing the learned Standing Counsel for the State does not arise. The order therefore has been passed without any application of mind. The order is also non-reasoned. G

8. Reasons introduce clarity in an order. On plainest con- H

A consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order indicative of an application of its mind, all the more when its order is amenable to further avenue of challenge.

9. Even in respect of administrative orders Lord Denning, M.R. in *Breen v. Amalgamated Engg. Union* (1971 (1) All ER 1148) observed: (All ER p.1154h) 'The giving of reasons is one of the fundamentals of good administration.' In *Alexander Machinery (Dudley) Ltd. v. Crabtree* (1974 ICR 120 (NIRC)) it was observed: 'Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at.' Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the 'inscrutable face of the sphinx', it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking-out. The 'inscrutable face of the sphinx' is ordinarily incongruous with a judicial or quasi-judicial performance.

10. The manner in which the appeal has been dismissed is not the proper course while dealing with the appeal when it raised substantial question of law.

11. Above being the position, we set aside the order of the High Court. The matter is remitted to it for fresh consideration in accordance with law. The parties are directed to place fresh evidence and materials before the High Court for the purpose of adjudication for disposing of First Appeal No. 836 of 2006.

12. The appeal is allowed but in the circumstances without any order as to costs.

H N.J.

Appeal allowed.