

CASE NO.:
Appeal (civil) 2088 of 2008

PETITIONER:
EMM TEX SYNTHETICS

RESPONDENT:
OM PARKASH & ANR.

DATE OF JUDGMENT: 25/03/2008

BENCH:
TARUN CHATTERJEE & HARJIT SINGH BEDI

JUDGMENT:
JUDGMENT

ORDER
(Arising out of SLP (C) No. 3301 of 2007)

1. Leave granted.
2. In spite of due service on the respondents, no one has entered appearance. At the time of hearing of this appeal also, no one has appeared before us to contest the appeal.
3. This appeal is directed against the Judgment and Order dated 5th of December, 2006 passed by a learned Judge (Chief Justice) of the High Court of Himachal Pradesh at Simla in CMP (M) No. 821 of 2006, by which the High Court had dismissed the appeal on a technical ground that the appeal was not maintainable under Section 30 (1)(a) of the Workmen's Compensation Act, 1923 (in short the 'Act') as the memorandum of appeal was not accompanied by a Certificate issued by the Commissioner, Workmen's Compensation, to show that the appellant had deposited with him the amount payable under the order which was appealed.
4. We have heard the learned counsel for the appellant and examined the relevant provisions made under Section 30 of the Act and other materials on record. After a careful examination, we are of the view that in the absence of any specified form of Certificate indicated in the Act or the Rules, it cannot be said that the Certificate produced by the appellant was not in compliance with Section 30 of the Act. It is an admitted fact that the appellant had deposited the awarded amount by way of a Demand Draft duly received by the office of the Commissioner. The Demand Draft was deposited along with a covering letter and the receipt was given on its copy. The High Court had refused to accept it as a Certificate under the Act and therefore, dismissed the appeal.
5. In our view, in the absence of any specified form of Certificate, a proof of deposit of compensation would be a substantial compliance of Section 30 of the Act. Therefore, the appellant could not be thrown out on such a technical ground.
6. That being the position, we set aside the Judgment of the High Court and request the High Court to decide the appeal filed under Section 30 of the Act in accordance with law and after giving hearing to the parties, dispose of the same after passing a reasoned order within six months from the date of supply of a copy of this order.
7. For the reasons aforesaid, the impugned order is set aside. The appeal is allowed to the extent indicated above. There will be no order as to costs.