

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2008
(Arising out of SLP (C) No.11516 of 2006)

National Insurance Co. Ltd.

..Appellant

Versus

Gulab Nabi and Anr.

..Respondents

J U D G M E N T

Dr. ARIJIT PASAYAT, J.

1. Leave granted.
2. Challenge in this appeal is to the order passed by a Division Bench of the Allahabad High Court dismissing the appeal filed by the appellant summarily.

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 deceased 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.

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:

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

The appeal has got no force.

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.

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.

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.

8. Reasons introduce clarity in an order. On plainest 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.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(Dr. MUKUNDAKAM SHARMA)

New Delhi,
July 24, 2008