

**HIGH COURT OF JAMMU AND KASHMIR AT
JAMMU**

CIMA No. 69/09 , CMP No. 98/09

Dated: 09-8.2011

Divisional Manager, J&K SFC, Division, Doda
Vs.

Noor Din and anr.

Coram:

Hon'ble Mr. Justice Muzaffar Hussain Attar, Judge

Appearing counsel:

For the petitioner/ appellant (s) : Mr. Vipen Gandotra, Advocate.

For the respondent(s) : Mr. A.A. Hamal, Advocate

Whether approved for Reporting in

Digest/Journal/Media : **Yes**

Oral

Award dated 30-12-2008 passed by the Commissioner under Workmen's Compensation Act (Assistant Labour Commissioner) Kishtwar, is called in question in this appeal. The authority has

passed the award in the amount of Rs. 42,100/- as also interest for an amount of Rs. 11,100/- .

Heard learned counsel for the parties. Considered the matter.

Learned counsel for the appellant, after inviting attention of the court to the impugned award, submitted that it does not constitute a judgment in law. Learned counsel made a specific reference to Rule 32 of the Workmen Compensation Rules, 1924 and submitted that neither the evidence has been referred nor discussed and even no reason is recorded for passing of the award. Learned counsel further submitted that the matter be remanded to the authority with the direction that he will pass the award on the available material in accordance with law, more particularly with reference to Rule 32 of the aforementioned Rules.

Confronted with the situation aforementioned, learned counsel for respondents in his fairness submitted that the matter be remanded to the authority and he be directed to pass an award on the available material in accordance with law. Learned counsel further submitted that the authority be directed not to entertain further evidence in the matter and whatever material is available,

fresh award be passed on that material. Learned counsel also submitted that the authority be directed to pass fresh award within stipulated period of time.

The award, which is impugned in this appeal, cannot be said to be a judgment within the meaning of law. Commissioner under Workmen's Compensation Act is a quasi judicial authority. Claims are being filed under the Workmen's Compensation Act, 1923 and when resisted by the other side, the authority is duty bound to allow the parties to adduce evidence in support of respective stand taken in their pleadings and thereafter has to consider the evidence, referred to it in the award and record his reasons for either allowing the application or disallowing it. Rule 32 of 1924 Rules has been observed in breach. The impugned award does not discuss the facts of the case, the evidence led is not referred to and no reason is recorded. This award cannot be said to be a judgment. This substantial question of law is involved in this appeal.

For the aforesaid reasons, this appeal is disposed of in the following manner :

The impugned award dated 30-12-2008 is set aside. The matter is remanded back to the Commissioner under Workmen's

Compensation Act (Assistant Labour Commissioner) Kishtwar, who is directed to pass fresh reasoned award in accordance with the mandate of law contained in Workmen's Compensation Act, 1923 and Workmen Compensation Rules, 1924 and in light of the observations made in this judgment. While passing the fresh award, parties be afforded an opportunity of hearing either in person or through their representatives. The authority to pass fresh award within one month from the date copy of this order is served upon them. Parties to appear before the authority on 23-8-2011.

(Muzaffar Hussain Attar)
Judge

Jammu: 09-8-2011
RSB,Secy.