

Appeal(ESI)No. 01 of 2024

Exh. UW-1

Resumed on oath :-

Further examination-in-chief by Advocate Shri.U.S.Jagdale for the Applicant :-

8. Contents of my Affidavit at Exh.UW-1, are true and correct. It is drafted as per my instructions and it bears my signature.

9. Documents filed below list Exh.U-2. Document at Sr.No.1 is the copy of the medical papers of the K.E.M. Hospital (Page Nos.1 to 14), are at Exh.U-12. Document at Sr.No.2 is copy of the letter dated 04.10.1994(Page Nos.15 to 16), is at Exh.U-13. Document at Sr.No.3 is the copy of the application of the applicant dated 17.08.2022 and reply of the opponent dated 27.03.2023(Page Nos.17 to 20), is at Exh.U-14. Document at Sr. No.4 is the copy of the Disability Certificate issued by All India Institute of Physical Medicine and Rehabilitation Centre dated 20.02.1996 and other papers(Page Nos.21 to 22) is at Exh.U-15. Document at Sr.No.5 is the copy of the certificate of Civil Surgeon Thane dated 24.04.1998(Page No.23), is at Exh.U-16. Document at Sr.No.6 is the copy of the application of the applicant dated 21.07.2024 and reply to it from the opponents dated 16.10.2023(Page Nos.24 to 40) are at Exh.U-17.

Chief examination is over.

Cross-Examination by Shri. P.K. Chaturvedi, Advocate for the Opponents :-

10. I know the contents of my evidence affidavit. I was

serving as Maintenance Fitter at M/s. Vidyut Metallic Limited from 1990 to 2017. After joining of my duty the ESI Card was issued in my name vide Insurance No.31/7147302. The opponent No.2 after examination issued Certificate of Disability for 35% as per Exh.U-13 on 04.10.1994. Thereafter the Civil Surgeon, Thane on 24.04.1998 issued the certificate of 50% of disability as per Exh.U-16. It was submitted to the opponent No.1. Both these certificates were issued for the injury caused to my right eye.

11. K.E.M. Hospital Doctor while giving me treatment for right eye had prescribed me Prednisolone tablet for recovery. After consuming those tables for 2 months as prescribed by Doctor, its adversely affected my both hip joints, which causes the problem of B/L A Vascular Necrosis in the year 1996. Due to this problems I lost my natural functions of folding of legs. I have never issued any letter to opponents about causing of this health problem due to consumption of medicine for treatment of eyes. On 20.02.1996 I visited All India Institute of Physical Medicine and Rehabilitation Centre. It was recommended to me by my family Doctor and I never informed about the same to opponent No.1.

12. I informed to opponent No.1 on 17.05.2022. Earlier I approached to opponent No.1 in the year 1998, at that time I was informed to visit after 5 years. But I never visited them again after 5 years also. I have not mentioned anything about the same in my evidence affidavit nor filed any documents earlier in this proceeding.

13. As the witness has produced the original letter issued to him by opponent No.1 dated 28.01.1999 and ready to file the photocopy of the same on record. The said photocopy is taken on record as per list Exh.U-18. The photocopy is exhibited after perusal of original as Exh.U-19. After completing 5 years, after causing of accident or after issuing Disability Certificate, I have not approached to opponent No.1 nor made any application with them, for seeking review of the disability percentage issued by opponent No.1, as per Exh.U-13.

14. It is true to say that, as per Exh.U-14 the opponents have issued reply to my application on 27.03.2023 about revising the percentage of my disability as 50% as per Exh.U-14.

15. It is true to say that as per Exh.U-17 I have issued letter to opponent No.1 for increasing the percentage of my disability upto 100%. Now says that as per Exh.U-17 I have applied for review of earlier medical decision for claiming benefits for right eye for 50% disability and B/L (AVN) for 40% from opponent No.1 on permanent basis with back date effect. My letter was replied on 27.03.2023 only by providing 50% as percentage of permanent disability w.e.f. 17.08.2022. It is true to say that due to the accident caused in the year 1993, only eye injury was caused to me and the opponents have enhanced the percentage of my permanent disability for the same from 35% to 50%. It is true to say that the certificate Exh.U-15 issued for disability is 40% for B/L (AVN) by All India Institute of Physical Medicine and Rehabilitation Centre. It is true to say that opponent No.1 has not recommended me for treatment to the

said Institute. It is true to say that for getting disability certificate Exh.U-15 I was not recommended by opponent No.1. Now the document filed below list Exh.R-7 at Sr. No.3 is shown to me, which is the copy of Memorandum dated 05.02.2024. As the said document is referred to the witness it is marked as **Exh.R-9**. I have perused the same Memorandum it is for revision of rates of PDB/DB from 01.08.2022. It is not true to say that as per this Memorandum there is no effect provided for the approved enhancement in such rate prior to 01.08.2022. The witness has pointed out column No.42, wherein the clause is mentioned about cases where disablement or death occurred on or after 01.01.1993 and upto 31.12.1993. It is true to say that as per this memorandum Exh.R-9 nowhere it is mentioned to give retrospective effect for providing the benefits about the disablement. It is true to say that my hip injury B/L (AVN) is never considered as my Employment Related Injury by opponent No.1. It is not true to say that I have filed a false case and filed false evidence affidavit and deposing false.

Cross-Examination Over.

No. Re-Examination.

R.O.A.C.

Date :- 04.12.2025

Place :- Thane.

Asg/-

Sd/-
(Mrs. Pradnya S. Kale),
Member,
Industrial Court, Thane