

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 826 of 2025**

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BHAVIKA HITENDRASINH JETHVA & ORS.

Versus

ACT INFRA PORT LTD. & ANR.

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Appearance:

MR.HIREN M MODI(3732) for the Appellants

CHETAN D KARIYA(8819) for the Respondent(s) No. 1

MR YOGI K GADHIA(5913) for the Respondent(s) No. 2

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CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI**Date : 20/07/2026****ORDER**

1. This appeal is filed under Section 30 of the Employees' Compensation Act (in short "the Act") seeking enhancement of the compensation granted by the learned Workman Commissioner, Bhuj, District Kutch, to the Appellant/original claimant, whereby the learned Workman Commissioner by impugned order dated 31.12.2024 partly allowed WC (NF) No.30 of 2010 and granted meager amount of compensation of Rs.29,354/- together with interest at the rate of 12%, though the Appellant//original claimant sustained an injury involving the amputation of three toes.

2. The appeal has been filed by the original claimant. The facts of the matter, as recapitulated by the learned Workman Commissioner, are not in dispute between the parties.

3. The learned Workman Commissioner assessed the disability arising from the said injury with reference to the Schedule of Injuries and awarded compensation of Rs.29,354/- together with interest at the rate of 12%.

4. Heard learned advocate Mr. Hiren Modi for the appellants and learned advocate Mr. Yogi Gadhiya for the respondent No.2. When the matter is called out, learned advocate Mr. Chetan Baria for the respondent No.1 is absent.

5. Mr. Hiren Modi, learned advocate for the Appellants, submitted that the learned Workman Commissioner failed to correctly assess the disability suffered by the claimant. It was submitted that three toes of the claimant were amputated, constituting a Schedule Injury, and that the Workman Commissioner was required to assess the disability on the basis of the Schedule Injury. It was further submitted that the learned Workman Commissioner ignored Exh.66 being the certificate of permanent disablement issued by Dr. Suresh Rudani and instead relied only upon the disability stated for the Schedule Injury. It was further submitted that the learned Workman Commissioner failed and/or refused to consider certain medical bills recording expenses incurred by the claimant, without recording any reasons for doing so, and that there is accordingly an error on the part of the learned Workman Commissioner in awarding a meager amount of compensation.

5.1 Upon above submissions, learned advocate Mr. Modi

prays to allow this First Appeal and that the matter be remanded for reconsideration of the medical bills/expenses.

6. On the other hand, Mr. Gadhiya, learned advocate appearing for the respondent No.2, submitted that the injury sustained by the claimant is a Schedule Injury, and that any medical opinion suggesting disability beyond what is stated in the Schedule is not acceptable. It was submitted that the learned Workman Commissioner rightly referred to the Schedule and reassessed the disability accordingly, and that no error has been committed by the learned Workman Commissioner.

6.1 Upon above submissions, learned advocate Mr. Gadhia prays to dismiss the First Appeal.

7. Having considered the facts and circumstances of the case, and more particularly the medical papers on record, the Court found without delving into or deciding the merits of the case that this is a fit case to remand the matter to the learned Workman Commissioner for reassessment of the entire issue.

8. The Court noted that it is admitted that the claimant received an injury involving amputation of three toes, that medical evidence is on record and is required to be interpreted, and that the learned Workman Commissioner, without recording any reasons, struck out certain medical bills from consideration. On this basis, the Court found force

in the submission of learned advocate Mr. Hiren Modi that the matter deserves reconsideration.

9. For the foregoing reasons, the First Appeal is allowed. Impugned order dated 31.12.2024 passed by the learned Workman Commissioner, Bhuj in WC (NF) No.30 of 2010 is hereby quashed and set aside.

10. WC (NF) No.30 of 2010 is restored/remanded to the Court of the Workman Commissioner, Bhuj, with a direction to conclude the same within an outer limit of six months from receipt of this order, without being influenced by its earlier order.

11. Liberty is granted to either party desiring to lead evidence to do so before the learned Workman Commissioner.

12. Needless to state that this Court has not touched anything on the merits of the case and therefore, the learned Workman Commissioner shall decide the matter on its own merits and in accordance with law after considering all the evidence led by the parties.

13. Registry is directed to return back the R & P, if any, to the concerned Court forthwith.

(J. C. DOSHI,J)

SHEKHAR P. BARVE