

RATNAPALA

v.

**SRI LANKA CO-OPERATIVE INDUSTRIES UNION LTD. AND
ANOTHER**

SUPREME COURT

FERNANDO, J.,

AMERASINGHE, J. AND

GOONEWARDENA, J.

SC APPEAL NO. 37/94

HCAWC NO. 3/92

CASE NO. WC – C30/714/90 CR

JULY 29, 1994

Workmen's Compensation – Section 6C of the Workmen's Compensation Ordinance, Schedule I as amended by Act, No. 15 of 1990 – Whether injuries to wrist, knee and rib qualify for compensation.

The Commissioner of Workmen's Compensation (the 2nd respondent) awarded the appellant compensation for permanent / partial disablement resulting from injuries and fractures (to the wrist, knee and rib) sustained in the course of his employment under the 1st respondent.

Held:

- (1) The injuries sustained by the appellant constitute "loss of any member or part thereof . . ." referred to in the last item of Schedule I to section 6C of the Workmen's Compensation Ordinance, as amended by Act, No. 15 of 1990. There is no reason to give a restrictive interpretation to the word "member" so as to exclude "a part or an organ of the body". The injuries in issue qualify for compensation under Schedule I as being a loss of any "member" or part of the body.

APPEAL from the judgment of the High Court.

D. R. P. Goonetilake with *S. A. D. S. Suraweera* for appellant.

P. Palihawadana for respondent.

July 29, 1994

FERNANDO, J.

The Commissioner of Workmen's Compensation awarded the appellant 01 a sum of Rs. 75,000 as compensation for permanent partial disablement resulting from injuries and fractures (to the wrist, knee and rib), sustained in the course of his employment under the respondent.

On appeal, the learned High Court Judge held that the injuries suffered by the appellant were not covered by any of the items specifically enumerated in Schedule I to the Workmen's Compensation Ordinance, or by the last item thereof. He came to the conclusion that "member" did not include the wrist, knee or rib, because in the last item of that Schedule the statute itself had given illustrations of 10 what was meant by "member" as "nose, breast, ear, etc.". He, therefore, held that "member" in the context meant an organ, and allowed the appeal.

Section 6C of the Ordinance provides for the amount of compensation where permanent partial disablement results:

"(i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury."

The last item of Schedule I, as amended by Act, No. 15 of 1990, 20 provides for compensation, in the case of "loss of any member or part thereof not mentioned above (eg. nose, breast, ear, etc.) to be assessed by a medical officer "upto a maximum of 50% of the loss of earning capacity. The Commissioner accepted the medical

assessment that there was permanent partial disablement, and that the appellant had suffered a 30% loss of earning capacity; he also acted on a certificate of earnings furnished by the respondent, according to which the appellant's average monthly earnings during the twelve months preceding the accident was Rs. 6,284. Corresponding to those earnings, the sum due for permanent total disablement, according to Schedule IV, introduced by Act, No. 15 of 1990, was Rs. 250,000; and the Commissioner awarded 30% of that, namely Rs. 75,000. 30

The word "member" is not defined in the Ordinance. The object of the Ordinance is to provide compensation for disability resulting from personal injury caused by accidents arising out of and in the course of employment; and there is no reason to give a restrictive interpretation to the word "member", the ordinary meaning of which is "a part or an organ of the body". The wrist, the knee and the rib are all parts of the body. I hold that the injuries sustained by the appellant were covered by the last item of Schedule I. 40

The appeal is allowed, the order of the High Court is set aside, and the order of the Commissioner is restored, with costs in a sum of Rs. 5,000.

AMERASINGHE, J. – I agree.

GOONEWARDENE, J. – I agree.

Appeal allowed.