

IN THE INDUSTRIAL COURT OF SWAZILAND

HOLDEN AT MBABANE

CASE NO. 7/1988

In the matter between:

MOSES MSIBI

Applicant

AND

1. ROBERTS CONSTRUCTION (SWD) LTD

1st Respondent

2. WORKMEN'S COMPENSATION MEDICAL BOARD

2nd Respondent

CORAM:

J.A. HASSANALI

President

IN PERSON

Applicant

MR J. OSCROFT For

1st Respondent

MR D. MBOTHONI For

2nd Respondent

MR MOKGOKONG & MR MATSEBULA

Assessors.

ORDER

HASSANALI, P.

This is an Application made by the Applicant under the Workmen's Compensation Act seeking an Order from the Court on the following grounds -

(1) to find that both the attending surgeon and the Workman's Compensation Medical Board had misdirected themselves in finding that the Applicant's fracture had healed well and that the Applicant had no disability percentage -

(2) that an impartial medical practitioner be requested to re- examine applicant and to award him his true disability percentage.

(3) that the Insurance Corporation be requested to pay applicant his compensation, calculated on the strength of the findings of the Doctor.

The Applicant was employed by Robert Constructions, the Respondent Company as an Auto electrician. On 7th May, 1984 whilst working he sustained fractures in the 2nd and 3rd fingers of his left hand. As a result he was hospitalised for about 3 months. During this period the Company paid him 75% of his

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normal monthly wages in terms of Sec. 9 of the Workman's Compensation Act. At the end of the 3rd month, the attending surgeon at the Mbabane Government Hospital declared that the applicant's fractures had completely healed and as such he was not entitled to any disability percentage. Not being satisfied with this decision, the applicant applied to the Workman's Compensation Medical Board for a review. The Medical Board after proper examination concurred with the surgeon and refused his application.

Mr. Oscroft representing Robert Constructions raised a legal objection in that the decision of the Medical Board was final and as such this Court had no jurisdiction to hear and determine this matter.

This objection is raised under Sec. 30(4) read with Sec. 32(2) of the said Act.

Having perused these sections I am of the view that the decision made by the Medical Board is final and that this Court has no jurisdiction to hear and determine this matter.

Consequently Application dismissed. My Assessors agree with my decision.

J.A. HASSANALI,

PRESIDENT