

Speed Post

BEFORE COMMISSIONER
UNDER EMPLOYEES COMPENSATION ACT 1923
LABOUR DEPARTMENT, GNCT OF DELHI, SOUTH WEST DISTRICT
DTC COLONY, PRATAP NAGAR, HARI NAGAR, NEW DELHI-64

No. EAR (D)-06/SWD/2019\387-88

Dated:- 8/2/2021

In the matter of:-

Sh. Ram Swaroop (father of deceased workman Sh. Rohit)
R/o F-226, J.J. Colony, Inder Puri, New Delhi

.....Claimant

V/S

M/s Laxmi Gift and Novelties,
Thr. Sh. G.P. Mutthyu,
Opp. I/I, DSIIDC, Budh Nagar,
Inderpuri, New Delhi -110046

.....Respondent

ORDER

1. Whereas, intimation has been received through EAR filed by IO, P.S. Inderpuri alongwith Final report filed by the IO before the Court of Shri. MS. Bhavna Kalia, LD. MM, Patiala House Courts, New Delhi. In the final report it has been mentioned that on 08.04.2018 workman Sh. Rohit was putting plastic granule in the molding machine. While doing work on machine he was electrocuted. Immediately he was taken to Hospital for treatment where he was declared dead by the doctors. Documents i.e. copy of Final Form Report under Section 173 Cr. P.C. filed before the Court of Ld. M.M. Patiala House Courts, Delhi, Copy of FIR no. 0070 dated 08.04.2018 and name of accused has been mentioned in the said final report namely Sh. G.P. Muttu, B-685-86-87, Budh Nagar, J.J. Colony, Inderpuri, New Delhi.

2. Summon dated 02.07.2019, 14.08.2019, 09.10.2019, 25.11.2019 and Dasti summon through area SHO were sent to the respondent for appearance.



Despite receipt of summons and as per speed post delivery report and also report of SHO, the summon was duly delivered to the respondent. Despite receipt of summon respondent failed to appear and file written submission which seems that respondent is advertantly not interested to defend itself, hence was proceeded ex-parte.

3. In view of the contents of above mentioned EAR alongwith Final report, FIR and other relevant documents also as per the direction of the Hon'ble Delhi High Court vide judgment dated 28.10.2015 in FAO 385/2013 titled as Puran Lal and Ors. Vs. New India Assurance Co.Ltd., & Ors. that Employees Accident report alongwith findings of the IO and all other relevant documents. Since, the IO has filed EAR as mentioned above, It has been established that Sh. Rohit Kumar died during and out of his employment under the respondent and the respondent has not paid the death compensation to the dependent of deceased workman.

4. Relief:

Next comes as to what amount of compensation the claimant is entitled. The deceased employee was aged 19 years at time of his death as per post-mortem report his age shown as 19 years. In view of the age and wage, the dependent/legal heirs of deceased workman are entitled to death compensation as under:-

Relevant factor – schedule IV for 19 years of age	: 225.22
50% of wages @ Rs. 8,000/- pm per month. As per section 4	: Rs. 4,000/-
Amount of compensation calculated	: 225.22 X 4000
	: Rs. 9,00,880/-

5. As per the provisions of Sub Section (3) of Section 4A of the Act, the amount of compensation should have been paid by the Respondent to the legal heirs/ dependants of deceased within one month from the date of accident but the respondents has not yet paid the same. Therefore, the dependant of

deceased Rohit Kumar also entitled for interest @12% on the compensation amount w.e.f. 08.04.2018.

6. Therefore, respondent is liable to pay the amount of death compensation, hence directed to deposit an amount of Rs. 9,00,880/- (Rupees Nine Lacs, Eight Hundred Eighty only) on account of employment death compensation, payable to legal heirs/dependent of deceased Rohit Kumar along with simple interest @ 12% p.a. w.e.f. 08.04.2018 till its realization through Pay order in favour of "Commissioner, Workmen Compensation" (District-South West)" within a period of thirty (30) days from the date of issue of this order for further disbursement to the claimant/dependant of deceased.
7. The respondents are also directed to **Show Cause** as to why penalty not exceeding fifty percent of the compensation amount be not imposed upon him under Section 4 (A) (3) (b) of the Employees Compensation Act, 1923 for the default in paying the compensation due under the Act within one month from the date it fell due. The respondent is directed to appear before this office on **05.03.2021 at 10.00 A.M.**

Given under my hand and seal of on the 05th February 2021.




(Gurmukh Singh)

Commissioner,
Under Employees Compensation Act, 1923