

BEFORE SH. K.M. SINGH, COMMISSIONER
(UNDER EMPLOYEES' COMPENSATION ACT, 1923)
DISTRICT NORTH EAST
VISHWAKARMA NAGAR, JHILMIL COLONY,
SHAH DARA, DELHI-110032

Case No. EAR/13/CEC/NE/I/54/2017/ 1579-1582

Dated: 02-07-21

In the matter of:-

Sh. Deepak S/o Sh. Sunehari Lal
R/o JB-6/89, JB-6 Block,
Welcome, Seelampur -03, Delhi

.....Petitioner

Through

Dehli Dukan Evam Sansthan Kamgar Union (Regd.)
277, Pratap Khand, Vishwakarma Nagar, Delhi-110095

..... AR of Petitioner

VERSUS

Sh. Subhash Chand Agarwal
G-115, New Seelampur, Delhi-110053

Also at

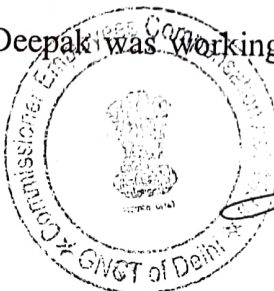
Khasra No. 13/16, Mandoli Industrial Area, Delhi

.....Respondent

ORDER

1. That this authority has received information through Employee Accident Report (EAR) from PS- Harsh Vihar that at 02.30 P.M. on 25.06.2017, Sh. Deepak S/o Sh. Sunehari Lal, was doing the roof repair work at factory located at Khasra No. 13/16 Mandoli Industrial Area, Delhi and suddenly fell down while working in which he received injuries. He was taken to G.T.B. Hospital for treatment by CATS Ambulance where MLC No-A-4949/2017 was prepared and FIR No. 0210/2017 dated 25.06.2017 under section 288/337 of IPC 1860 was lodged in PS Harsh Vihar, Delhi. As per the information furnished by the police department, the petitioner Sh. Deepak was working as a Helper with the respondent since last one

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year and he was being paid Rs. 8,500/- per month as monthly wages. At the time of the accident, he was 22 years of the age. Taking cognizance of the matter, the details of the employer were collected and notice was issued to the respondent to appear and file reply. The respondent Sh. Subhash Aggarwal appeared on 18.09.2017 and submitted that the claimant was assigned the work at his factory on 25.06.2017 at Factory No-13/16, Mandoli, Delhi. He slipped during the work and received injuries and was taken to the hospital for treatment. He further stated that the petitioner is being treated by him but no injury compensation is paid to the petitioner. In the meantime, the medical board of GTB Hospital, issued a letter regarding examining the percentage of disability of the claimant in which they have submitted that the treatment of the petitioner is being carried out and actual disability will be analyzed after the surgery. Accordingly, in view of the report of the Medical Board, the case was closed on 13.08.2018 with the liberty to the petitioner to reopen the case once he obtains the Disability certificate.

2. That on 23.09.2019, the petitioner and respondent Sh. Subhash Agarwal appeared in the proceedings and the petitioner was advised to file the calculation sheet for injury compensation as per the disability. As per the directions, the petitioner has submitted the copy of Disability Certificate No-620/14/08/19 dated 06.08.2019 issued by Guru Teg Bahadur Hospital, Delhi according to which the petitioner has become 5% permanent disabled in relation to his right lower limb. He also filed the calculation sheet for injury compensation and the same was supplied to the respondent for deposition of the compensation and filing reply to the calculation, if any. Thereafter, the respondent stopped appearing and a show cause notice for interest and penalty was issued to the respondent. The respondent appeared on 21.11.2019 but did not file the reply.



Therefore, the matter was adjourned for filing reply and the respondent submitted that they had paid Rs. 50,000/- to the claimant. He was directed to submit the bank statement to show the payment. The respondent filed the copy of bank statement on 13.12.2019 which was taken on record but he did not file the reply to the show cause notice. Accordingly, a last opportunity was provided to the respondent to file the reply on 17.01.2020.

3. That the respondent appeared on 18.03.2020 but again failed to file the reply and another opportunity was provided to him to file the reply. During the proceedings on 13.10.2020, the respondent was told to deposit the balance amount of compensation and interest @ 12 % per annum from the date of accident to till the date of payment. The respondent did not pay the remaining amount of the compensation nor deposited the interest nor file the reply to show cause notice. Accordingly, the arguments were heard from both the parties and the matter was reserved for orders.
4. That on perusal/ examination of documents placed on records, admission during the proceedings by the respondent, arguments in this case, it is proved that there exist employer-employee relationship and the petitioner has received the injuries during and in the course of employment. Accordingly, the petitioner is entitled to receive the compensation from the respondent. Since, the respondent has already paid Rs. 50,000/- as compensation to the petitioner, the same is considered and will be adjusted in the remaining compensation.
5. That as per the EAR, the age of petitioner was 22 years at the time of the accident, but as per the documents placed on record i.e. matriculation certificate, the petitioner's DOB is 07.11.1992 according to which he was 25 years of age at the time of accident, therefore, the same has been taken



on record for the purpose of calculation of compensation. As far as the last drawn wages of the petitioner is concerned, as per the police report EAR, it is mentioned that the petitioner was working as Labour and was drawing wages @ Rs.8,500/- per month at the time of accident according to which the monthly wages of the petitioner comes to more than Rs.8,000. As such, for the purpose of calculation of amount of compensation, the last drawn wages of is taken as Rs.8,000/- which is the maximum limit of wages fixed for the purpose of calculation of compensation under the provision of law.

6. That in view of the above facts and circumstances and on the basis of 25 years of age the relevant applicable factor is 216.91 and Rs. 8,000/- per month wages, the amount of compensation to which petitioners are entitled is calculated as under:-

(i) Relevant factor of 24 years of age	= 216.91
(ii) 60% of last drawn salary @ Rs. 8,000/- pm	= 4,800
(iii) Percentage of Disability	= 5%
(iv) Amount of Compensation	=

$$\frac{216.91 \times 4,800 \times 5}{100} = \text{Rs. } 52,058.4 = \text{Rs. } 52,058/-$$

9. That in view of above facts and circumstances and the documents placed on record, it is held that the petitioner is entitled to receive an amount of Rs.52,058/- as injury compensation from the respondent. Since the respondent had already paid Rs.50,000/- to the petitioner, therefore, the petitioner is entitled to receive balance amount of compensation of Rs. 2,058/- from the respondent.

10. That as per the provisions of the Act, the respondents should have make the payment of compensation within one month from the date it fell due i.e. 25.07.2017, but the respondents fail to do so. Therefore, as per the



provisions of Clause (a) of Sub Section (3) of Section 4A of the Act, the claimant is also entitled for simple interest @ 12% p.a. on the amount of compensation i.e. Rs.50,000/- w.e.f. 25.06.2017 to 18.04.2019 and on Rs. 2,058/- from 25.06.2017 till the date of realization of the compensation amount by the respondent. As far as imposing penalty u/s 4 of the Act on respondents is concerned, the Authority is of the opinion that the respondent had intentionally delayed the payment of compensation to the petitioner even after knowledge of the accident and even after directions by the Authority. accordingly this Authority is hereby impose an amount equivalent to 25% of the compensation which comes to Rs. 13,015/- as penalty on the respondent for intentionally delaying the payment.

11. That as decided above, the Respondent i.e. Sh. Subhash Aggarwal is hereby directed to deposit the above amount of Rs.2,058/- simple interest @ 12% per annum on Rs.50,000/- w.e.f. 25.06.2017 to 18.04.2019 and on Rs.2,058/- w.e.f. 25.06.2017 till the date of payment of the same and Rs. 13,015/- as penalty/ by way of Demand Draft/ Pay Order in favour of "Commissioner Employees Compensation" within 30 days from today, failing which proceedings to recover the amount of compensation as well as the interest, as an arrear of land revenue, shall be initiated as per the provisions of Section 31 of the Act.

Given under my hand and seal of this court on 2nd day of, July 2021.



(K.M.SINGH)

Commissioner, Employees Compensation