

**BEFORE SH. S.C YADAV, COMMISSIONER
(UNDER EMPLOYEES' COMPENSATION ACT, 1923)
LABOUR DEPARTMENT, GOVT. OF N.C.T. OF DELHI
5, SHAM NATH MARG, DELHI-110054**

No. WC/06/ND/17/199.

Dated: 30/08/2022.

IN THE MATTER OF:

Sh. Dilip Kariyare S/o Sh. Shiv Prasad
R/o Village – Saragaon, Po – Saragaon,
Thana – Saragaon, Zilla – Zaandagi, Chattisgarh

C/o Azad Hind Mazdoor Union,
L-256, J.J Colony, Wazirpur, Delhi

.....Applicant/Claimant

V/s

The Ex. Engineer, PWD
Division No. 322, under main Flyover Bridge,
Kashmere Gate, PWD Office,
Delhi - 110006

.....Respondent No. 1

The Assistant Engineer, PWD
PWD, Enquiry Office,
Gulabi Bagh, Delhi-110007

.....Respondent No. 2

Sh. S.B Mittal
Govt. Contractor,
D-123, Anand Vihar,
Delhi – 110092

.....Respondent No. 3

ORDER

1. By this order I will dispose of claim application filed by petitioner dated 10/07/2015 under the provision the EC Act 1923 for seeking injury compensation from the respondent.
2. The case of claimant is this that he was employed as a mason with the respondent and was getting Rs. 500/- on daily basis. The claimant further stated that on 16/06/2015, the secretary of the respondent forced the claimant to work on faulty grinder Machine, as a result the claimant met with an accident and got injury below his knee joint in left leg, the injury caused a cut in his bone also. After that the claimant was treated in Deep



Chand Bandhu Hospital and Bada Hindu Rao Hospital till 23/04/2015 (Before 13/04/2015 the claimant was treated in Deep Chand Bandu Hospital and from 13/03/2015 to 23/04/2015 the claimant was treated in Hindu Rao Hospital). The claimant further stated that due to the said accident he has lost his 100% earning capacity. The claimant further stated that the respondent inspite of receiving the legal notice has not paid any amount of compensation to the claimant. In the last claimant prayed that he was employed as a mason and the accident caused out of and during the course of his employment. He is entitled to compensation to the extent of 100% disability along with interest @ 12% p.a. from the date of accident till realization and penalty to the extent of 50%.

3. Summon were sent to the respondents with direction to appear before this Authority to file reply in the defence of the matter. Respondent No 1 & 2 (M/s PWD) appeared and filed reply in this matter and stated that in connection to this matter it is submitted that after verification of records of their office (M/s PWD Resp. 1 & 2) it is found that the said agency i.e. Sh. N.C. Mittal , 27/44, Mittal Bhawan, Vishwas Nagar, Gali No. 5, Shahdara, Delhi, have not executed any work under this division during last three years and no complaint with respect to any dispute received from Sh. Dalip Kanyare worker till date. The respondent further submitted that the dispute is not concerned with the undersigned and notice sent to them wrongly.
4. Petitioner rebutted all the contents of Respondent No. 1 & 2 as stated in their reply and reiterated contents of the claim petition in his rejoinder.
5. On 30/01/2020 respondent no. 3 (as per the claim petition of the claimant) i.e. M/s Magwan Mittal, 123, D- Block, Anand Vihar, Delhi – 110094 was proceeded ex-parte by the then authority. But on 18/02/2021 the claimant filed an application requesting the authority to implead M/s S.B Mittal (Govt. Contractor), D-123, Anand Vihar, Delhi – 110094 as respondent no 3 replacing the previous respondent no 3 i.e. M/s Magwan Mittal, 123, D- Block, Anand Vihar, Delhi – 110094. The same was taken on record and notice was sent to the respondent to appear before this Authority to file reply in the defence of the matter. Despite the receipt of the summon by R3 M/s S.B Mittal did not appear, hence on 06/04/2021 respondent no 3 M/s S.B Mittal was proceeded ex-parte.



6. On the pleadings of the parties, the following issues were framed on 18/08/2021 for adjudication:
 1. Whether applicant has met an accident out of and in the course of his employment with respondents?
 2. And if so what relief is he entitled and from whom?
 3. If so what direction are necessary in this regard?
7. Matter was fixed for the evidence of the parties. Claimant examined himself by way of filing his affidavit Ex. WW1/A. The contents of affidavit are corroborated to those claim petition. Claimant also filed documents Ex. WW1/1 to Ex. WW1/6 i.e. Copy of demand notice, copy of attendance card issued by Resp. No3 M/s SB Mittal, copy of Emergency registration card of Deep Chand Hospital, copy of OPD card of Deep Chand Hospital, Copy of OPD card of Hinu Rao Hospital. Claimant has tendered his evidence on 21/09/2021.
8. Despite opportunities provided to the respondents to cross examine the claimant. The respondent failed to appear and cross examine the claimant. Hence on 29/03/2022 right of respondent to cross examine the claimant was closed and further on 21/04/2022 despite given sufficient opportunities the respondent failed to lead evidence in the matter, hence right of respondent to file / lead evidence was closed.
9. The case was fixed for arguments. The claimant filed written submission on record, and further Respondent failed to file arguments, therefore oral submission adduced by the claimant was heard in detail.
10. On the pleadings of the parties, documents filed therein and the evidence adduced on their behalf, I have to give my findings in the case as under:

Issue No. 1, 2 & 3

The case of claimant is this that he was employed as a mason with the respondent on daily wages. And on 16/06/2015 he met with an accident while he was working on Grinder Machine which was defected due to this he got 4 inch grinder cut in his left leg below the knee and was admitted for treatment on 23/04/2015 in Deep Chand Bandhu Hospital and Bada Hindu Rao Hospital thereafter. Before 13/04/2015 the claimant was treated in Deep Chand Bandu Hospital and from 13/03/2015 to 23/04/2015 the claimant was treated in Hindu Rao Hospital. Respondent did not pay compensation as such the claimant has filed the claim against the respondent.

The matter has been examined and on the basis of claim, wherein claimant has stated that he had met with an accident on 16/06/2015 and treatment was taken much



before accident as stated by him in claim application on the other side on affidavit which has been tendered by the claimant has changed the date of accident i.e. 16/03/2015 instead of 16/06/2015. According to this it is found that there is contradictory statement about the date of accident as mentioned in claim application and in affidavit, which has been filed on record by the claimant. During the whole proceedings claimant has never rectified or brought correct date of accident before this authority and the documents regarding the treatment of claimant has been placed on record clearly indicates date and time 16/03/2015 regarding treatment in Deep Chand Bandhu Hospital, Delhi. Therefore in contradictory statement of the claimant I do not find fit case to allow application for compensation of claimant as such same is dismissed. Accordingly issues framed in the matter need not to be replied.

11. Given under my hand and seal of this Authority on this 15th day of August, 2022.

15/30/0123
(S.C. Yadav)

Commissioner

Employee's Compensation Act, 1923

