

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. CEC-I/NE/20/2018 | 477

Dated: 28/02/2024

IN THE MATTER OF:

Sh. Mobin Ansari @ Momin
367-A, J&K Pocket, Dilshad Garden,
Delhi-110095

.....Applicant/Claimant

V/s

Sh. Salman Mansuri S/o Shamsuddin Mansuri,
M/s Arshan Bakery,
B-261, Gali No.6, Babunagar, Mustafabad,
Delhi-110094

.....Respondent No.1

ORDER

1. Vide this order, I will dispose of the application dated 08/06/2018 filed by the applicant/claimant for seeking injury compensation.
2. Claimant in the claim petition stated that he was continuously working as a mixer man in the company since 01.03.2016 on last drawn salary of Rs. 9,000/- per month. That earlier the respondent's company was being run at the address of B-244 Street No. 6 Babunagar Mustafabad Delhi 94, where he was appointed by Mr. Salman Mansoori and he was working at the said address where his hand met with an accident. And after the said accident, instead of paying compensation for the applicant's injured hand, the respondent company was shifted to the present address. That he was deprived of the appointment letter and other legal facilities by violating the labor laws by the respondent party and the Delhi Government has from time to time issued a notification regarding the employment of semi-skilled employees. The prescribed minimum wage was not given. That he repeatedly demanded minimum wage from the respondent but the managers paid no attention. That on 14.6.2017 at 2 PM, his left hand came into the machine as a result of which he got a serious injury to his hand due to which he became unconscious. That the respondent took him to Guru Teg Bahadur Hospital where he was admitted and made



MLC and discharged on 21.6.2017. It is further submitted that he has come to know that the respondent party had made the applicant sign on a blank paper while he was unconscious. Although the respondent party had assured him not to file a police case by assuring him of compensation for the accident and treatment, but neither the compensation was paid nor the expenses of medicines etc. were given by the respondent. That he also filed a complaint with labour office through the union on 21.8.2017. That Labour Inspector Mr. Ramesh Prasad repeatedly called the respondent to the labour office but the respondent did not appear. That he further sent a notice through speed post on 04.09.2017 to the respondent party but no reply to the notice was given by the respondent party. In the last the claimant submitted that the accident had occurred / arising out of and during his course of employment and hence respondent are liable to pay compensation under EC Act, 1923 to the tune of Rs. 8,00,566 along with interest @18% interest from the date of accident and penalty to the extent of 50% of the principal amount.

3. Summon were sent to the respondent with direction to appear before this Authority to file reply in the matter.
4. Respondent filed its reply and submitted that the claimant has been continuously harassing the answering respondent by filing false cases. That even before the present claim, the claimant had filed several false cases against the respondent and in the said case number-DG/1/complaint 321/4091, the claimant had alleged that the respondent address – B - 224, Babu Nagar, Mustafabad, Delhi, But he runs a bakery in the name of M/s Arshan, although the claimant has no connection with the said address. It is further submitted by the answering respondent that now once again a false case has been filed by the claimant in which false allegations are being made by him because the claimant has never been an employee of the answering respondent nor does the answering respondent know the claimant. It is further submitted by the answering respondent that it is also necessary to tell the Hon'ble Court that if the claimant and the answering respondent, had ever had an employee-employer relation, then any FIR or complaint would have been registered against the respondent in any police station in relation to the said incident, whereas in this case, the claimant is directly making false allegations against the respondent, which are completely wrong and baseless. That the claimant has filed this suit against the respondent on false and fabricated facts with the intention of extorting money illegally. That the claimant has filed this suit on the basis of false, baseless and incorrect facts and he has been completely unable to prove and has not been able to present any such document which shows that he has ever worked with or has any relation with the respondent. Further answering respondent denied rest of contents of claim petition in toto and prayed that the answering respondent is not liable to pay any compensation to the applicant and further prayed that as the claim being stand on the false, wrong and frivolous statement of facts, therefore the application of the claimant may be dismissed with exemplary cost.



5. Claimant filed rejoinder by which he denied contents of reply filed by respondent and reiterated the contents of his claim application.
6. On 18/04/2019 following issues were framed for adjudication:
 1. Whether the respondent has ever been in the business of Bakery at B-244, Gali No – 6, Babu Nagar, Mustafabad, Delhi - 94?
 2. Whether the claimant has worked in the respondent's firm?
 3. Whether the accident leading to injury on the left hand of the claimant has happened during and in the course of employment with respondent Bakery firm?
 4. Any other relief?
7. Matter was fixed for the evidence of the claimant. Claimant filed statement by way of affidavit Ex. WW1/A. The contents of affidavit are corroborative to those claim petition the claimant also filed documents Ex. WW1/1 to WW1/7 i.e. copy of patient discharge summary dated 14/06/2017 of Guru Teg Bahadur Hospital, copy of OPD card of Guru Teg Bahadur Hospital, copy of complaint dated 21/08/2017 filed in Labour Department, copy of demand notice dated 04/09/2017, copy of postal receipts, copy of visiting card of the respondent/management, copy of complaint dated 10/11/2017 filed before police. His statement was also recorded on 21/10/2019 and was also cross examined by counsel of respondent on 22/11/2019 and was deferred for further cross examination on 16/03/2020 and was again deferred for completing the cross examination. But despite given sufficient opportunities the respondent failed to appear and failed to cross examine the claimant. Therefore, the respondent was proceeded ex-parte on 06/07/2023.
8. The matter was fixed for filing of written arguments. Claimant filed written argument and oral submissions adduced by the claimant was heard in detail.
9. On the pleading of the parties, evidence adduced on their behalf and the arguments addressed thereon, I have to give my findings as under:-

ISSUE No. 1, 2 & 3:

10. The case of claimant is this that he was continuously working as a mixer man in the company since 01.03.2016 on last drawn salary of Rs. 9000/- per month. That earlier the respondent's company was being run at the address of B-244 Street No. 6 Babunagar Mustafabad Delhi 94, where he was appointed by Mr. Salman Mansoori and he was working at the said address where his hand met with an accident. And after the said accident, instead of paying compensation for the applicant's injured hand, the respondent company was shifted to the present address. That he was deprived of the appointment



letter and other legal facilities by violating the labour laws by the respondent party and the Delhi Government has from time to time issued a notification regarding the employment of semi-skilled employees. The prescribed minimum wage was not given. That he repeatedly demanded minimum wage from the respondent but the managers paid no attention. That on 14.6.2017 at 2 PM, his left hand came into the machine as a result of which he got a serious injury to his hand due to which he became unconscious. That the respondent took him to Guru Teg Bahadur Hospital where he was admitted and made MLC and discharged on 21.6.2017. It is further submitted that he has come to know that the respondent party had made the applicant sign on a blank paper while he was unconscious. Although the respondent party had assured him not to file a police case by assuring him of compensation for the accident and treatment, but neither the compensation was paid nor the expenses of medicines etc. were given by the respondent. That he also filed a complaint with labour office through the union on 21.8.2017. That Labour Inspector Mr. Ramesh Prasad repeatedly called the respondent to the labour office but the respondent did not appear. That he further sent a notice through speed post on 04.09.2017 to the respondent party but no reply to the notice was given by the respondent party.

On the other side in reply respondent has taken objection that there was no employee employer relationship with the claimant and the respondent ever. Further respondent has taken stand that there was no bakery at the address given by the claimant in his claim application. Claimant has filed claim only to extort money from respondent. On the other side claimant has reiterated that on the day of accident he was employed with the respondent and the respondent had taken to the claimant and got admitted in Guru Teg Bahadur Hospital for the treatment. In this regard claimant has made a complaint to the police authorities on 10/11/2017 and labour authorities also on 21/08/2017 wherein they have mentioned about the incident occurred in his employment with respondent and prayed to take appropriate action on his complaint. Further respondent was appearing through his counsel in the proceedings and stopped in middle of cross examination of the claimant which was not completed as such right of respondent was further closed. Thereafter many dates have been fixed in the matter but respondent did not turn up to prove contents of his reply by way of leading evidence, as such contention of respondent is not considerable since it was not proved by way of evidence on merit. From the conduct of the respondent it is proved that he has avoided the proceedings to lead evidence therefore it establish that respondent was engaged in bakery and the averments made by respondent does not constitute any merit, hence same are not considerable. From the available facts of the case it is proved that claimant was the employee of the respondent and met with an accident out of and in the course of his employment and he is entitled for the injury compensation for the respondent. As per disability certificate No. 410/97/04/18 dated 24/04/2018 issued by Medical board, Guru Teg Bahadur Hospital claimant has loco



motor disable / and has 73% disabled in relation to his left upper limb. In view of above issue no. 1, 2 & 3 are decided in favour of claimant and against the respondent.

ISSUE No. 4

11. As made discussion above for relief I am taking age of claimant as 35 years (as per date of birth mentioned in Aadhar Card No.881576981490) and relevant factor 197.06 and 60% of last drawn wages restricted to 8,000/- and 73% disability, as such calculation is made as under:

$$\frac{197.06 \times 4800 \times 73}{100} = \text{Rs. } 6,90,498/-$$

The applicant/claimant is also entitled to interest as per Section 4A of the 'Act' @ 12% per annum from 30 days after the accident.

12. Keeping in view the facts and circumstances, I impose a penalty of 25% of the principal amount on the respondents.
13. Therefore, the applicant/claimant is entitled to receive injury compensation from respondent. Accordingly I direct Respondent to deposit **Rs. 6,90,498/- (Rupees Six Lakh Ninty Thousand Four Hundred and Ninty Eight Only)** on account of compensation payable to the applicant/claimant along with interest @ 12% P.A. w.e.f. 13/10/2017 till its realization and the respondent is further directed to **deposit 25% penalty of awarded amount i.e. Rs. 1,72,624/- within 30 days** through pay order in favour of **"Commissioner Employee's Compensation"** within a period of 30 days from pronouncement of the order before this Authority.

14. Given under my hand and seal of this Authority on this 28th day of February, 2024.

(S.C. Yadav)
Commissioner
Employee's Compensation Act, 1923

