

Speed Post

BEFORE COMMISSIONER EMPLOYEES COMPENSATION  
(THE EMPLOYEES COMPENSATION ACT, 1923)  
OFFICE OF JOINT LABOUR COMMISSIONER (SOUTH)  
LABOUR DEPARTMENT, GOVT. OF N.C.T. OF DELHI  
PUSHPA BHAWAN, PUSHP VIHAR, NEW DELHI - 110062

Tel. No. 26055394

E-mail: labdlcs.delhi@gmail.com

No. CEC/SD/D/12/2020/

3549-350

Dated:

04/5/22

In the matter of:

1. Smt. Fulo Devi (aged about 33 years)  
W/o Late Rajesh Yadav
2. Khusbu Kumari (aged about 11 years)  
D/o Late Rajesh Yadav
3. Ranjan Kumar (aged about 08 years)  
S/o Late Rajesh Yadav
4. Radhey Kumar (aged about 08 years)  
S/o Late Rajesh Yadav  
(Through natural guardian of the claimant no. 2 to 4)
5. Sh. Udgar Yadav (aged about 78 years)  
S/o Late Akal Yadav

Permanent Address:

Ward-13, Birkhauli, Koilathan  
B.K. Sthan, Darbhanga, Kioteeranway  
Bihar-846005

At present:

H.No. 171, Ward No.2  
Mehrauli,  
New Delhi-110020

....Claimant

V/s

Sh. Chaman Lal  
B-37, 1<sup>st</sup> Floor,  
New Multan Nagar, Delhi-110056

... Respondent

ORDER

1. Vide this order I shall disposed of claim application dated 04.03.2020 filed by claimant under section 22 of the Employees Compensation Act, 1923 (Herein after referred as an Act).
2. The claimant has filed a claim on behalf of all the claimants on account of death of husband of claimant no. 1, father of claimants

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no. 2 to 4 and son of the claimant no. 5 i.e. Sh. Rajesh Yadav, arising out of and in course of the employment with the respondent. The respondent is the owner of Khasra No. 72/16, Near Metro Pillar Number 478, Rajdhani Park, Nagloi, Delhi. The respondent runs a water supply business and is liable and responsible for the legal and illegal act/conduct. The husband of the claimant no. 1 was working as a supervisor of the respondent for water supply business and getting salary of Rs. 25,000/- per month. The husband of the claimant no. 1 i.e. deceased along with co-labours always told the respondent about the deplorable atmosphere and working conditions. Conditions of electric wires were very wretched and due to this various times electric current ran through water. The deceased along with co-labours always warned the respondent about the filling of water at the basement, but the respondent always made false promises. The husband of the claimant no. 1 was working with the respondent for last ten years and on 23.06.2017 at about 11 A.M. the respondent pressurized the deceased to withdraw water filled in the basement of khasra no. 72/16, Near Metro Pillar Number 478, Rajdhani Park, Nangloi, Delhi. The deceased Sh. Rajesh Yadav, aged 30 years, was not agree to withdraw water filled in the basement making objections that electric shock may take place from the leakage of motor wires, after his undue pressure deceased Rajesh Yadav went to the basement and plugged on the wire of the electric motor and when deceased Rajesh Yadav plugged on the wire of the electric motor, he fell due to the electric shock (electrocution). The deceased made alarm but the respondent did not pay attention towards him. When the deceased got dead then the respondent took him to hospital late and fled from the hospital. The hospital declared the deceased brought dead. A F.I.R. was lodged in P.S. Nagloi, Outer District, New Delhi on 23.06.2017, F.I.R. No. 248/2017, U/s 304A/287 I.P.C. Due to the negligence of the respondent the deceased got dead and the respondent is liable to pay compensation to the claimant i.e. wife of the deceased. The claimant no. 1 sent a legal notice to the respondent through Speed Post dated 17.06.2019 but the respondent did not reply and pay any amount to the claimants till dated. It is therefore most respectfully prayed that this Hon'ble Court may kindly be pleased to pass an award or Rs. 25,00,000/- (Twenty Five Lakhs) in favour of applicants/claimants alongwith interest from the date of death of the deceased and till realization, against the respondent in the interest of justice.

3. Summon was issued to the respondent with direction to appear before this Court to file his reply/defence in the matter. The respondent did not appear despite service of summon, therefore the





respondent was proceeded Ex parte on 27.09.2021. On completion of pleadings following issues were framed;

- (i) Whether there exists employer-employee relationship between the respondent and deceased workman Sh. Rajesh Yadav?
- (ii) Whether Sh. Rajesh Yadav sustained fatal injuries out of and during course of employment?
- (iii) Whether the claimants are entitled to compensation and if yes to what amount and what directions are necessary in this regard?
- (iv) Relief?

The claimant filed his evidence by way of affidavit. The statement of the claimant recorded, arguments heard. Case is concluded for order.

4. I have gone through the claims, replies and documents filed by the parties and my findings are as under:-

#### **Issue No. 1**

The claimant in her claim has stated that Sh. Rajesh Yadav (now deceased) was employed with the respondent at Khasra No. 72/16, Near Metro Pillar No. 478, Rajdhani Park, Nangloi, New Delhi- 110044. In her evidence she has filed copy of Police Report in F.I.R. no. 248/2017 (Ex CW-1/J), wherein name of place where death occurred is mentioned as Khasra No. 72/16, Near Metro Pillar No. 478, Rajdhani Park, Nangloi, New Delhi- 110044. She has further filed copy of F.I.R. no. 248/2017 (Ex CW-1/B). In the F.I.R. it is mentioned that the accident had taken place at Khasra No. 72/16, Rajdhani Park, Nangloi, New Delhi- 110044. The evidence filed by the claimant corroborates with the claim. Further the evidence filed by the claimant remained un rebutted and uncontroverted. Therefore I hold that Sh. Rajesh Yadav was employed with the respondent. This issue is decided in favour of the claimant and against the respondent.

#### **Issue No. 2**

Claimant in her claim has stated that Sh. Rajesh Yadav (now deceased) was on duty on 23.06.2017 with the respondent. The respondent directed Sh. Rajesh Yadav to drain the water filled in the basement of the respondent at Khasra No. 72/16, Rajdhani Park, Nangloi, New Delhi- 110044. It is stated that while working on the directions of the respondent, when he was draining the water from the basement he got electrocuted and due to electrocution he died. In her evidence she has filed copy of MLC no. 6855/17 (Ex CW-1/H), wherein it is mentioned patient brought in the hospital in



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unresponsive condition C/o electrocution working at Near Mutthot Building. She has also filed copy of PMR no 561/2017 dated 24.06.2017 (Ex CW-1/I), wherein it is mentioned alleged history of electric shock on 23.06.2017 and taken to Shri Balaji Medical Hospital vide MLC No. 6855/17. As per PMR the cause of the death is- Death is due to shock as a result of antimortem electrocution. As per Police Report in F.I.R. No. 248/17, Sh. Rajesh Yadav got electrocuted at Khasra No. 72/16, Rajdhani Park, Nangloi, New Delhi- 110044. Therefore, I hold that Sh. Rajesh Yadav (now deceased) sustained fatal injuries due to electrocution out of and during the course of employment with the respondent.

### Issue No. 3

Since Issue no. 1 and 2 have been decided in favour of the claimant, therefore the claimants are entitled for compensation which is calculated as under;

The wages of the purpose of calculation of compensation as per section 4 (1) (B) is taken as 50% of Rs. 8000/- i.e. Rs. 4000/-

Age of the claimant is 30 years (As per PMR)

Age factor is 207.98

Compensation Amount; **4000 x 207.98 = Rs. 8,31,920/-**.

The claimants are entitled to Rs. 8,31,920/- towards payment of compensation.

5. Since the Respondent failed to deposit compensation within 30 days from the date of accident with this Authority hence Respondent is also liable to pay 12% interest per annum on awarded amount with effect from 23.06.2017. Further a show cause notice was issued to the respondent Under Section 4 (A) 3 (b) as to why penalty should not be imposed upon him for not depositing the amount in time. The respondent neither filed reply to the show cause notice nor deposited the compensation amount with this Authority. Therefore, penalty of Rs. 1,66,384/- i.e. 20% of the awarded amount is also imposed upon the respondent for not making the payment of compensation as provided under the Act.
6. Therefore the respondent i.e. Sh. Chaman Lal, B-37, 1<sup>st</sup> Floor, New Multan Nagar, Delhi-110056 is directed to deposit Rs. 8,31,920/- towards compensation along with 12% interest w.e.f. 23.06.2017 till the realization of compensation amount, penalty amount of Rs. 1,66,384/- and Rs. 5000/- towards funeral expenses in the favour of **Commissioner Employees Compensation VIII** within 30 days from the date of order, failing which same shall be recovered as per provision of the Act.



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7. Given under my hand and seal of this Authority on this 29<sup>th</sup> day of  
**April, 2022.**



**(Amardeep)**  
**Commissioner Employee's Compensation**  
**(South)**