



OFFICE OF THE COMMISSIONER EMPLOYEE'S COMPENSATION
DISTRICT NORTH-WEST
LABOUR WELFARE CENTRE, NIMRI COLONY,
ASHOK VIHAR, PHASE-IV, DELHI-110052

No.ECI/116/NW/19/781-783

Dated: 2/3/21

In the matter of:

Sh. Sunil Mandal S/o Sh. Lale Mandal,
R/o Jhuggi No. D-504, Ambedkar Park,
Wazirpur Industrial Area, Delhi-110052 :Petitioner/Claimant

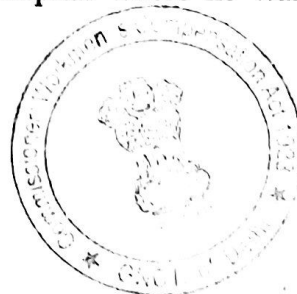
VERSUS

Sh. Avtar Singh
Transporter of G-21, Kumar Tower,
Wazirpur Industrial Area, Delhi-110052. :Respondent no.1

Sh. Rajender Giria, Proprietor,
M/s Oswal Polychem,
A-65 Group, Western Wing, Delhi-110052. :Respondent no.2

ORDER

1. By this order I shall dispose of the application U/O IX Rule 4 R/W Sec. 151 CPC filed on behalf of claimant for setting aside the order dated 19.08.2020 passed by the then Ld. Commissioner under Employee's Compensation.
2. Brief facts of the case are that the claimant had filed a claim for injury compensation under Employees Compensation Act, 1923 (herein after referred to as the Act) against the Respondents Sh. Avtar Singh, Transporter of G-21, Kumar Tower, Wazirpur Industrial Area, Delhi-110052 & Sh. Rajender Giria, Proprietor of M/s Oswal Polychem, A-65 Group, Western Wing, Delhi-110052 stating therein that he was working with management as Labour since 2000 and used to work of loading and unloading the goods of the management and his last drawn wage was ₹15,000/- p.m. That on 06.04.2017, when he was on duty under the Respondent No. 1, on direction of Respondent No. 2, he met with an accident as a heap of Boris fell on his leg and there was fracture in his leg. The claimant was taken to Dr. Baba Saheb Ambedkar Hospital where he was admitted for three



days. Thereafter he was admitted to Parnami Hospital, Azadpur, Delhi on 09.04.2017 and he was operated there and a rod was inserted in his leg. He suffered permanent disability to the extent of 38% and on 12.06.2017, the Respondent No. 1 paid only ₹20,000/- to the workman, although the Respondents are liable to pay compensation of accident as this incident had occurred due to negligence and carelessness of the Respondents as the claimant several times requested to Respondents to provide safety but they did not pay any heed to it and on the contrary asked him to do the duty. It has further been stated that Respondent No. 1 in collusion with Respondent No. 2 paid only ₹20,000/- to the claimant and terminated his services illegally, although the Respondents are liable to pay ₹15,00,000/- as compensation. The claimant has further stated that earlier he had filed the claim of compensation against Respondent No. 2 then he came to know the Respondents in collusion only for the purpose to deprive the claimant from his legal rights obtained his signatures on some papers regarding the earned wage of ₹20,000/- but later on he came to know that all the liabilities have been settled by Respondent No. 1 regarding industrial dispute except employee compensation, which has not been paid till date. In such condition, the claim filed for compensation against the Respondent No. 2 by the claimant has been dismissed on 05.06.2018.

3. Summon was sent to Respondents for appearing in proceedings and filing their written statement.
4. Respondent No. 1 appeared in proceeding on 16.03.2020 and filed his written statement stating therein that the claim of claimant has already been disposed of by the Commissioner under Employees Compensation vide her order No. ECI/20/NW/18/1183 dated 05.06.2018, hence the claim does not subsist. He filed a copy of said order passed by the then Commissioner under Employees Compensation alongwith his reply. Copy of written statement and order dated





05.06.2018 was provided to claimant for discussion on maintainability in view of the said order passed by the then Commissioner under Employees Compensation.

5. The matter was heard by my Ld. Predecessor on 19.08.2020 when the claimant in person was present but his AR was not present. Also on that day, none from Respondent was present. Commissioner under Employees Compensation disposed of the claim holding *"Since this matter has already been disposed off by the then Commissioner vide his order dated 05.06.2018, no application for any action has been filed by petitioner, but it is quite strange that how proceeding has been started. Moreover, the Commissioner has not been granted review power under the Provision of Employees Compensation Act, 1923. If petitioner want to review the order of the Commissioner, then remedy is available only in appeal before Hon'ble High Court as provided under the Act. Hence matter is disposed off."*
6. The present application has been filed by claimant U/O IX Rule 4 R/W Sec. 151 CPC for setting aside the order dated 19.08.2020 but this application is not maintainable as the claim has not been dismissed by my predecessor under Rule 2 or Rule 3 of order IX but has been disposed of keeping in view that the Commissioner does not have the power to review his own order and the remedy is available only in appeal before the Hon'ble High Court. Hence the application is not maintainable and accordingly disposed of.

Given under my hand and seal of this court on this ...^{2nd}... day of March, 2021.


(S.K. GUPTA)

COMMISSIONER EMPLOYEE'S COMPENSATION
NORTH-WEST DISTRICT

