

**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**

ECI/07/NW/2018/257-260.

Dated: 12/02/2021.

IN THE MATTER OF:

**Sh. Lokesh Kumar S/o Sh. Rajender Singh**  
R/o H. No. E-352, JJ Colony, Wazirpur,  
New Delhi

..... Claimant/Petitioner

V/s

**Sh. Nakul Gupta S/o Proprietor Smt Rani Gupta**  
Owner of A-62,  
Sawan Park, Phase-III,  
Ashok Vihar, New Delhi-110052

....Respondent No.1

**Smt. Rani Gupta w/o Sh Satyapal Gupta**  
Proprietor of the firm  
A-62,  
Sawan Park, Phase-III,  
Ashok Vihar, New Delhi-110052

....Respondent No. 2

**Sh Satyapal Gupta**  
Registered owner of the property  
A-62,  
Sawan Park, Phase-III,  
Ashok Vihar, New Delhi-110052

....Respondent No. 3

**ORDER**

1. Vide this order I will disposed of claim application dated 15/01/2018 filed by claimant under section 22 of the Employee's Compensation Act, 1923. (Herein after referred as an Act).
2. Petitioner Sh. Lokesh Kumar S/o Sh. Rajender Singh submitted that he was employed as a Bar Bender/Labourer with the respondent/Employer and on 23/03/2017 he met with an accident and sustained grievous injuries on his right leg out of and during the course of his employment. It is further submitted that on 23/03/2017 at about 06:00 PM he was working at the premises number A-62, Sawan Park, Phase-III, Ashok Vihar, Delhi owned by the respondent.





Further petitioner submitted that the work of construction for 4<sup>th</sup> floor was going on, at about 06:00 PM employer/respondent asked the workers to work on night shift as well. Further petitioner stated that it was not appropriate to justify by the workers that it would be difficult to work continuously for the entire day since morning till night, even then respondent directed the petitioner to join the ladder to enlarge it so as to go on the upper floor as there was no stairs. It was done and when the process of climbing on the ladder was going on all wall constructed not so good fell down and the bricks block thereof fell on the right leg of the applicant when he was working on the ground. Right leg of the petitioner was crushed. He was taken to nearby hospital, but there he was not entertained for treatment. There after he was taken to Sushruta Trauma Centre, Lok Nayak Hospital Annex C, Civil Lines, Delhi, where he was got admitted and took treatment. The case was registered under Police Station Bharat Nagar, North West District vide FIR No 0108/2017 dated 24/03/2017. Claimant/petitioner further submitted that after this accident he is not in position to do any work of his capacity and has become 100% disabled for the purpose of his employment as Bar Bender/Labourer. His earning capacity has been totally reduced. At the time of accident petitioner was getting wages Rs. 10000/- Per month including overtime charges and was aged 22 years. Respondent is having the notice of accident, since the day of its occurrence, but did not pay any compensation to claimant. In the last claimant submitted that he is entitled to receive injury compensation to the extent of 100% disability and interest 12% per annum as per section 4(1)(c) and 4(1)(d) of the Act along with penalty to the extent of 50%. In the last claimant prayed that direction be issued to the respondent to pay compensation as per provision of the Act. Claimant filed documents along with claim such as copy of FIR bearing No. 0108 dated 24/03/2017, discharge summary from Sushruta Trauma Centre and other medical record of treatment, vakalatnama of Advocate Sh. R.K Nain & Associates.

3. In this case Respondent No 1 is the son of Respondent No 2 & 3, Respondent No 2 is the proprietor of the firm and respondent No 3 is registered owner of the property.
4. Summon dated 22/01/2018 for 08/02/2018 through speed post, 09/02/2018 for 26/02/2018 were sent to the respondents with direction to appear before this authority for filing reply and defence in the matter. On 26/02/2018 Sh. Sidhant Aeron appeared for respondent and had filed Memo of Appearance on record, On his request copy of claim was provided for filing reply. On 18/03/2018 respondent Sh Nakul Gupta was present and submitted that his mother is the proprietor of M/s Standard Precision Blast Components, which has its sale unit / trading office at A-62, Sawan Park, Ph-III, Ashok Vihar, New Delhi. He further





stated that he looks after the business activities and his father Sh. Satyapal Gupta is the owner of the premises. Further he stated that he was told by labourers that accident of Sh. Lokesh Kumar was occurred and he was injured and matter was adjourned till 05/04/2018.

On 05/04/2018, neither respondent appeared nor filed reply before the then Commissioner as such defence was closed. Claimant was present who stated that while working at A-62, Sawan Park as a labourer he got injured and was being paid by Sh Nakul Gupta @ Rs 600 per day for 08 Hrs. Sh Nakul Gupta paid Rs 60000/- to him after 06 months. Further he submitted that he had worked for 02 days prior to the date of the accident.

5. Matter was fixed for evidence of claimant and for filing disability certificate. Claimant filed his evidence by way of affidavit Ex AW1/A. The contents of affidavit are corroborative to those in claim petition. Along with affidavit claimant filed documents such as copy of FIR bearing No. 0108/2017 dated 24/03/2017 Ex. AW1/1 (colly No of Pages 1 to 3), copy of MLC EX. AW1/2, Copy of disability certificate Ex AW1/3, Medical treatment documents Ex. AW1/4 (Colly No of pages 1 to 8) and copy of Aadhar card Ex AW1/5. As per disability certificate No 942 dated 19/07/2018 EX AW1/3 issued by medical board Aruna Asaf Ali, Government Hosp. 5, Rajpura Road, Delhi-54, by which claimant assessed 22% permanent (physical impairment) disabled in relation to right lower limb.
6. Claimant tendered his affidavit on 08/02/2021 and same was not crossed examined by the respondent. Written arguments also filed by the claimants.
7. Since, despite given sufficient opportunities, respondent did not file reply/any evidence to prove his case as such it appears that it establish that respondent did not want to say anything in his favour in the case. Further in principle during the proceedings held on 08/03/2018, Sh Nakul Gupta respondent admitted that he was having knowledge of accident in his premises and claimant met with an accident.
8. In view of above I have left no option except to consider claim of the claimant on the basis of available material on record such as copy of FIR, which is registered against owner of the property A-62, Sawan Park, Ph III, Ashok Vihar, ND, medical treatment documents of claimant and disability certificate issued by Medical board of Aruna Asaf Ali Hosp. to claimant.
9. In view of above discussion it is proved that claimant Sh. Lokesh Singh met with an accident on 23/03/2017 out of and in the course of his employment with respondent and resulting thereby be become 22% disabled permanent for his





employment which he was doing before the accident, as such he is entitled to receive injury compensation from the respondent under the EC Act, 1923

10. For calculation of injury compensation age of claimant as 22 years on the basis of date of birth 01/01/1995 as per his Aadhar Card No 2978 4903 6984, 22% disability as per medical disability certificate, 60% wages of Rs. 8,000/- as restricted under the Act which comes Rs. 4800/- and relevant factor 221.37 as per schedule IV of the Act has been taken for consideration. Accordingly compensation is calculated as under:

$$\frac{22 \times 4800 \times 221.37}{100} = 2,33,767/-$$

11. In view of above calculation claimant is entitled to receive Rs 2,33,767/- as a injury compensation. Further Respondent did not pay compensation despite having notice of accident as per section 4A, as such claimant is also entitled to receive 12% simple interest on awarded amount from the date of accident till its realisation. Accordingly respondent No 2 & 3 are liable to pay awarded amount to claimant Sh. Lokesh Kumar jointly or severally.
12. In view of above discussion I direct respondent No. 2 Smt Rani Gupta, Proprietor of the firm and respondent No 3 Sh. Satyapal Gupta registered owner of the property jointly and severally deposit Rs. 2,33,767/- along with 12% simple interest per annum from the date of accident till its realisation on awarded amount with Commissioner Employees Compensation by way of Demand Draft within 30 days from the date of order, failing which, same shall be recovered as per provision of the Act.
13. Regarding penalty separate show cause notice to be issued.
14. Given under my hand and seal of this Authority on this 12<sup>th</sup> day of Feb, 2021.

(S.C. Yadav)

Commissioner

Employee's Compensation Act, 1923

