

By Speed Post

BEFORE COMMISSIONER
UNDER EMPLOYEES COMPENSATION ACT 1923
LABOUR DEPARTMENT, GNCT OF DELHI, SOUTH WEST DISTRICT
DTC COLONY, PRATAP NAGAR, HARI NAGAR, NEW DELHI-64

No. EC(D)-10/SWD/2020/02

Dated 01/01/2021

In the matter of:

Dependents of Late Sh. Sanjeev Kumar,
R/o Village Karai, Karauli, Ghonsla,
Rajasthan

..... Claimant

Versus

1. M/s BSES
Thr. Its Manager Sh. Avinash Jha (Manager)
1. Sub Division Manglapuri, Delhi
2. BSES Bhawan, Nehru Place, Delhi

..... Respondent No.1

2. Sh. Sumit Arya(Prop.)
M/s India Care
6, L.S.C.F/F B-1, Mini Market, Janakpuri,
New Delhi 58

.....Respondent No.2

3. M/s Bharti Axa General Insurance Co, Ltd.,
Hosto Centre, No.43, Millers Road,
Vasant Nagar, Bangalore -560046

.....Respondent No.3

ORDER

1. Whereas, intimation letter has been received from M/s India Care thorough its Prop. Sh. Sumit Arya stating therein that on 28.02.2020 one of their employees namely Sh. Sanjeev Kumar expired on 28.02.2020 while he was working on electricity pole at Solanki Public School Durga Park, Palam New Delhi when he was working on electricity pole, suddenly electricity current came into the pole wire and death caused at a time. The claimant was admitted in Bhagat Chandra Hospital Mahavir Enclave and immediately on admission Dr. declared him dead and his dead body was sent to Deen Dayal Upadhyaya Hospital, Hari Nagar for post mortem on 29.02.2020 . The Respondent

No. 02 further stated that they are the contractor of M/s BSES Rajdhani Power Limited, respondent has also stated that they have taken workmen compensation policy from Bharti Axa General Insurance Company limited vide policy no. ST801257 and claim No. C1386659 valid for the period from 06.02.2020 to 05.02.2021. The respondent no. 2 has further mentioned that order for compensation under EC Act, 1923 be passed and apologies for late submission of the intimation i/r/o accidental death of employee Sh. Sanjeev Kumar.

2. Summon dated 09.11.2020 was sent to the respondents to appear and file written submission and show cause as to why penalty upto the extent of 50% of compensation amount be not imposed for not depositing the compensation within due time when it was due. Respondents failed to appear and file WS and reply of show cause notice. As per the speed post delivery report dated 16.11.2020 the summon has been duly received by the respondents, despite that respondent No.2 / employer failed to appear which seems that respondent is not interested to pursue the matter anymore . Hence, was proceeded ex-parte.

3. As the respondent has filed intimation letter dated 27.07.2020 before the Commissioner Employees Compensation admitting the fact of occurrence of accident and employment death of workman Sh. Sanjeev Kumar.

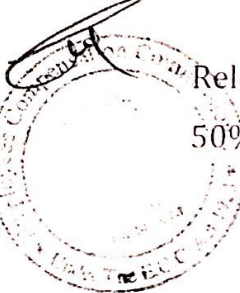
4. In view of the admission of the fact and order XII, Rule 6 of the Code of Civil Procedure, 1908 as it is a case of admission of an accident/death during the course out of employment under the Respondent, which is quoted as under :-

6 Judgment on admission :- (1) Where admission of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admission.

Since, it is an admitted case and is covered under Order XII Rule – 6 of Code of Civil Procedure, 1908, no further evidence is required.

5. Relief:

Next comes as to what amount of compensation the claimants are entitled As per the Post Mortem Report dated 29.02.2020 conducted on the dead body of Sh. Sanjeev Kumar Jatav by Doctors of department of Forensic Medicine DDU, Hari Nagar, Delhi, his age shown as 28 years. Hence, as per Post Mortem Report as well as pleading of the claimant for the purpose of the calculation of compensation, the age of the deceased at the time of death is taken as 28 year for the purpose of calculation of compensation in the case. and 50% of wages Rs.7500/- vide notification F.No.S-37025/03/2016-SS-1) dated 03.01.20. Accordingly compensation is calculated as under:-

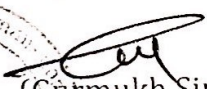


Relevant factor – schedule IV in 28 years of age	:	211.79
50% of wages @ Rs. 15,000/- p.m as per section 4	:	Rs. 7500/-
Amount of compensation :		211.79X7500
	=	Rs. 15,88,425/-

6. In view of the above calculation respondent No. 2 i.e. M/s India Care through its Prop. Sumit Arya is liable to pay death compensation Rs.15,88,425/- (Rupees Fifteen Lacs Eighty Eight Thousand Four Hundred Twenty Five Only) on account of compensation payable to the legal heirs/dependent of deceased workman Sh. Sanjeev Kumar Jatav along with interest @ 12 % p.a. w.e.f. 28.02.2020 till its realization, by way of Pay order in favour of "Commissioner, Workmen Compensation" (District-South West)" within a period of thirty (30) days from the pronouncement of this order for disbursement to the Claimant. Further respondent No.2 is at liberty to indemnify itself by claiming the death compensation from its insurer after deposition of the same in the account of Commissioner Employees Compensation if he so entitled.

7. The respondent No.2 was also directed to **show cause as to why penalty** not exceeding fifty percent of the compensation amount be not imposed upon him under Section 4 (A) (3) (b) of the Employees Compensation Act, 1923 for the default in paying the compensation due under the Act within one month from the date it fell due. Respondent No.02 failed to appear and reply the Show Cause Notice hence, penalty upto the extent of 30% of the compensation amount of Rs. 4,76,528/- (Rupees Four Lacs Seventy Six Thousand Five Hundred Twenty Eight Only) is imposed upon the respondent No.2 hence, directed to deposit the compensation amount alongwith interest and penalty as directed in para no. 06, failing which the same shall be recovered as arrears of land revenue in accordance to the said Act.

Given under my hand and seal of on the 01st January 2021.


(Gurmukh Singh)
Commissioner,
Under Employees Compensation Act, 1923

