

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. ECD/02/ND/2022/19.

Dated: 30/04/2024.

IN THE MATTER OF:

1. Smt. Kamlesh W/o Lt. Maleram
2. Rajni D/o Lt. Maleram
3. Deepak Pal S/o Lt. Maleram
4. Vikas S/o Lt. Maleram
5. Vishal S/o Lt. Maleram

All Residents of

House No. – A-35, Janta Vihar,
Mukundpur, Delhi – 110042

.....Applicant/Claimant

V/s

Through Prop/Owner

Sh. Ravinder Garg

M/s R.K Dry Cleaners

B-1038, 4th Floor,

Jahangirpuri, Delhi – 110033

.....Respondent

ORDER

1. Vide this order, I will dispose of the application dated 06/01/2020 filed by the applicant/claimant for seeking death compensation.
2. Claimant in the claim application submitted that the claimants/petitioner no.1 is the wife of the deceased and the claimant/petitioner no.2 is the daughter of the deceased and the claimants/petitioners No. 3 to 5 are the son of the deceased, all the petitioners are legally considered to the dependants legal heirs of the deceased for the purpose of the case. That the deceased Sh. Male Ram was working with M/S R.K Drycleaners as washing machine operator At B-1038, Jahangir Puri, Delhi-33 at the wages of Rs-12000/- Per Month. That on 19.08.2019 the deceased reached at place of respondent for conducting his duty and disclosed to the above respondent, the facts that the Dry-



cleaning/washing machine is not working properly as the same is defected one and there was a leakage of electric current in the said dry- cleaning/washing machine, but the respondent did not give any satisfactory reply and pressurized the deceased to work on the above said defective Dry-cleaning/washing machine otherwise the service/work of deceased would be terminated . That the deceased had to do work on the said defective dry-cleaning/washing machine under compelling circumstances. That at about 10.15 hrs when the deceased was working on the said defective Dry-cleaning/washing machine he suffered from electric current and was brought to the B.J.R.M hospital Jahangir Puri, Delhi, where the doctor of the said hospital declared deceased as brought dead. That consequently the matter has been reported the police officials of P.S Jahangir Puri and police has registered on F.I.R bearing No 0368 dated 19.08.2019 U/s 287/304-A IPC has been registered against the said Respondent. That at the time of incident, the deceased was aged about 48 years and having good health he was a simple man and was earning Rs. 12000/- per month besides other benefit as occurred from time to time the deceased was contributing his entire income towards the expenses for the welfare, maintenance and support of his family. That thereafter she approached the respondent for considering compensation arising out and in caused of the said incident but the respondent did not pay any heed to her request. That she through her counsel sent a legal demand notice on 03.12.2019 to the respondent at his address through speed post which duly served upon the respondent. That the respondent neither replied the said legal notice nor pays any compensation to the petitioners. In the end claimant prayed that the deceased male ram was in employment of the respondent and was on duty at time of the incident the death of the deceased was caused out of and in the course of the employment with the respondent. That the claimants are entitled for compensation amount of Rs.15,00,000/- along with 24% interest per annum from the date of incident till payment. That this Hon'ble Authority may be pleased to award a sum of Rs. 15, 00,000/- along with interest @ 24% per annum from the date of accident till realization of the awarded amount to the claimants.

3. Summon was 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 plaintiff/claimant has not come to this Hon'ble court with clean hands, same has concealed the material information. That the claim has been filed with malafide intentions only to extort the money from the respondent. Hence the same is liable to be dismissed. That the plaintiff/claimant application is not maintainable and sustainable in the eyes of the law as the plaintiff/claimant by virtue of the false and fabricated documents is seeking the claim without any lawful evidence. That the present application is not maintainable in the present court, the plaintiff/claimant did not produced any document concerned



employment with the respondent as mentioned in application. It is submitted that the deceased Sh. Male Ram was neither employee of respondent nor worked with the respondent. That the present application is not maintainable in the present form and liable to be rejected under order 7 rule 11(b) of C.P.C as the plaintiff has not affixed the requisite court fee upon the application as relief claimed. That plaintiff/claimant has filed a false case against the respondent. That it is conclusive fact that the deceased Sh. Male Ram was not working with the respondent as employee, the deceased person was a self employed person, and same was used to visit several shops in the area, thereby the deceased had developed friendly relation with the other employee of respondent as well as respondent also. That the plaintiff did not produce any document of employment with the respondent for entertain this application under the act. That on 19.08.19 the deceased Sh. Maleram used to take drugs and the deceased was under influence of drugs visited in the prohibited washing room without information or permission of the respondent's staff. That the deceased Sh Maleram did not followed the safety guideline as prescribed by the respondent. That the deceased Sh. Maleram done willful disobedience as per safety rule thereby he did not wore the plastic shoes and rubber gloves before entering the washing room, due to negligence of the deceased said accident was done, notwithstanding the respondent financially helped to the petitioners. But the petitioner did not disclosed the true facts in this Hon'ble court. That the deceased was wilful disregarded the safety term, thereby this accident was done by the mistake of deceased Sh. Maleram. Hence the respondent is not liable to pay any compensation to the petitioners. That the entire suit/application has been instituted by the plaintiffs with malafide intention only to extort the money from the respondent by the plaintiff. It is submitted that the plaintiff and their associates has extorted Rs. 70,000/- from the respondent in the name of deceased person. That the plaintiffs did not produced correct/relevant document of specific age proof of the deceased person, hence the same is liable to be dismissed. That the deceased's son visited to the office of the respondent for the money and threatened to the respondent for dire consequences, but the respondent did not complaint anywhere in this regard. The son of the deceased also telephonic demanded money to the respondent in the name of his deceased father. That the all the petitioner did not produced any relevant/correct document for the relation proof with the deceased person, the some petitioners has attained the age of majority thereby they cannot entertain as petitioner as dependent of deceased person for this act, hence the same is liable to be dismissed. That the deceased was not an employee of the respondent. That the plaintiffs did not produced any relevant document in regard of employment with respondent. That the present case has been filed without any cause of action in favour of the plaintiff and against the defendant and the present suit filed by the plaintiff is liable to be dismissed as per provision U/o 7 rule 11 C.P.C. In the last the answering respondent further denied rest of the contents in toto and prayed that this Hon'ble Court may kindly be pleased to dismissed the application with exemplary cost, in the interest of justice.



5. Claimant filed rejoinder by which he denied contents of reply filed by respondents and reiterated the contents of his claim application.
6. On 08/04/2021 following issues were framed for adjudication:
1. Whether employee-employer relationship exist between the deceased Sh. Male Ram and respondent?
 2. Whether accident resulting into death of deceased caused out of and during the course of employment and if so to what amount of death compensation, the dependants of deceased are entitled to?
 3. Relief, if any?
 4. Whether respondent are liable for penalty u/s-4A of the Act, if so what extent and what amount?
7. Matter was fixed for the evidence of the claimant. Claimant filed her statement by way of affidavit Ex.CW1/A. The contents of affidavit are corroborative to those claim petition. The claimant also filed document Ex. CW1/1, CW1/6, CW1/8, Ex. CW1/9, CW1/10 and Mark CW1/2 to CW1/5, CW1/7 and CW1/11 i.e. Copy of Aadhar card of all the petitioners/claimants, copy of Voter ID Card of Vikas, Copy of Adhar card of Male Ram, copy of Post mortem PM Report No. 632/18 dated 20/08/2018, copy of death certificate of Maleram Pal, copy of demand notice dated 03/12/2019, speed post receipt, copy of speed post tracking report. Her statement was also recorded and was also cross examined by counsel of respondent on 04/08/2022
- Further claimant examined another witness i.e. Sh. Deepak Pal S/o Lt Male Ram (Petitioner No. 3) by way of affidavit Ex. CW2/A and further tendered his evidence and was also cross examined by counsel of respondent on 04/08/2022.
- Further claimant examined another witness i.e. Sh. Vikas S/o Lt Male Ram (Petitioner No. 4) by way of affidavit Ex. CW3/A and further tendered his evidence on 16/11/2022 and was also cross examined by counsel of respondent on 18/01/2023.
8. For respondent Sh. Ravinder Garg – filed his evidence by way of affidavit Ex. DW1/A. The contents of affidavits were corroborative to those reply. His statement was also recorded and was also cross examined by counsel of claimant on 20/09/2023.
- Further respondent examined another witness i.e. Sh. Manish Kumar Tiwari S/o Komal Prasad Tiwari by way of affidavit Ex. DW2/A and further tendered his evidence and was also cross examined by counsel of claimant on 17/01/2024.
9. The matter was fixed for arguments. Written arguments were filed by the claimant and respondents and oral arguments were also heard in detail.



10. On the basis of pleadings of the parties and documents available on record I am giving my findings on the issues framed in the matter as under:

Issue No.1 & 2

11. That the case of the petitioner is this that the claimants/petitioner no.1 is the wife of the deceased and the claimant/petitioner no.2 is the daughter of the deceased and the claimants/petitioners No. 3 to 5 are the son of the deceased, all the petitioners are legally considered to be the dependants legal heirs of the deceased for the purpose of the case. That the deceased Sh. Male Ram was working with M/S R.K Drycleaners as washing machine operator At B-1038, Jahangir Puri, Delhi-33 at the wages of Rs-12000/- Per Month. That on 19.08.2019 the deceased reached at place of respondent for conducting his duty and disclosed to the above respondent, the facts that the Dry-cleaning/washing machine is not working properly as the same is defected one and there was a leakage of electric current in the said dry- cleaning/washing machine, but the respondent did not give any satisfactory reply and pressurized the deceased to work on the above said defective Dry-cleaning/washing machine otherwise the service/work of deceased would be terminated . That the deceased had to do work on the said defective dry-cleaning/washing machine under compelling circumstances. That at about 10.15 hrs when the deceased was working on the said defective Dry-cleaning/washing machine he suffered from electric current and was brought to the B.J.R.M hospital Jahangir Puri, Delhi, where the doctor of the said hospital declared deceased as brought dead. That consequently the matter has been reported the police officials of P.S Jahangir Puri and police has registered on F.I.R bearing No 0368 dated 19.08.2019 U/s 287/304-A IPC has been registered against the said Respondent. That at the time of incident, the deceased was aged about 48 years and having good health he was a simple man and was earning Rs. 12000/- per month besides other benefit as occurred from time to time the deceased was contributing his entire income towards the expenses for the welfare, maintenance and support of his family. That thereafter she approached the respondent for considering compensation arising out and in caused of the said incident but the respondent did not pay any heed to her request. That she through her counsel sent a legal demand notice on 03.12.2019 to the respondent at his address through speed post which duly served upon the respondent. That the respondent neither replied the said legal notice nor paid any compensation to the petitioners.

On the other side respondent denied employee employer relationship with deceased Male Ram. Further it is submitted that Male Ram was self employed person and same was used to visit various shops in the area, thereby the deceased had developed family relations with the other employee of the respondent as well as the respondent also. It is further submitted that deceased Male ram used to take drugs on 19/08/2019 and was



under influence of drugs when he visited in the prohibited washing room without information or permission of the respondents staff. Deceased did not follow the safety guidelines as prescribed by the respondent as such due to negligence of the deceased, said accident was done, notwithstanding the respondent financially helped to the petitioners, but the petitioner did not disclose this fact before this Authority. Further resp. denied that there was defect in the machine, as alleged in claim. On these ground resp. denied there liability towards payment of compensation to the claimant. I have gone through the material available on record, evidence of the parties and submissions. Claimant examined herself as Ex. CW1/A and also examined her 02 sons as CW2/A & CW3/A. Respondent examined himself as a Ex. DW1/A and another witness Sh. Manish Kumar Tiwari Ex. DW2/A. In this case 03 main grounds respondent has taken that 1. There was no employee employer relationship with deceased Male Ram, 2. Deceased Male Ram was self employed and 3. On the day of incident when deceased Male ram entered in prohibited area in washing room at that time he was under influence of drug. In this regard in respect of point No. 1 it is not denied that incident was not happened in the premises of the respondent. Further regarding employee-employer relationship since claimants have alleged that deceased was working with respondent last 10 years and had provided any service documents to the deceased in this regard to prove it false respondent did not produce any service record relating to other workers who are working with them at present. It could be establish by the respondent to prove service records of other persons to establish that respondent is maintaining records of their workers in the establishment, since deceased was not employee with the respondent as such his records did not made, but it was not done. One thing also emerge that how outsider who is not the employee of the establishment can enter in prohibited area i.e. washing room. Further there is no evidence on record which establish that deceased was under drug influence at the time of incident and about his negligence. While the Police Investigation report indicates that incident was taken place in the premises of respondent and same is not disputed by the respondent. There was MLC, FIR and Post mortem reports. Even Post mortem report does not indicate that deceased was under drugs influence, while cause of death has been given in PMR No. 632/18 that "*shock due to electrocution*". In this case respondent has also paid Rs. 70,000/- to the petitioners towards settlement. One question arises here how and why any person entered the settlement of this big amount while the person is not connected with them with any angle. On this observation I have come to this conclusion that respondent has created concocted story for escaping his liability under the Act and respondent failed to prove his case beyond doubt. All the materials / facts goes in favour of claimants. As such I hold that the death of deceased was due to electrocutions while he was in the employment of the respondent as such respondent is liable to pay compensation under the Act being the employer under section 3 of the Act to the petitioners. As such Issue No. 1 & 2 are decided in favour of claimant and against the respondents.



ISSUE No. 3

12. In view of above discussion made. I hold that claimant is entitled to receive death compensation under the EC Act 1923 from respondent. For considering the case of claimant for compensation I am taking age of deceased as 55 years as per age in Aadhar No. 590926756536 of the deceased and relevant factor as per age 135.56 and 50% of Rs. 8000/- as restricted under the Act.

Accordingly compensation is calculated as under:

50% of Rs. 8000/-	:	4000/-
Relevant factor	:	135.56
4000 * 135.56	:	Rs. 5,42,240/-

In view of this calculation claimant is entitled to receive Rs. Rs. 5,42,240/- as compensation from the respondent.

13. In view of above discussion, I direct respondent to deposit Rs. 5,42,240/- as compensation along with 12% interest w.e.f. 18/08/2019 till its realization. Further admittedly petitioner has received Rs. 70,000/- towards settlements from the respondent as such this amount to be adjusted in ordered amount. Thus after subtracting Rs. 70,000/- from the order amount i.e. Rs. 5,42,240/- remaining amount petitioners are entitled with interest as per Section 4A of the 'Act' @ 12% per annum within 30 days from the date of order by way of Demand draft in favour of "Commissioner Employees Compensation", failing, which same shall be recovered as per provision of the Act.

ISSUE No. 4

14. Regarding the issue of penalty, issue was framed for adjudication on 08/04/2021 as issue no. 4 along with other issues, respondent was granted opportunity to file reply on the point of penalty, but respondent did not file. In these circumstances since the respondent was having information about the accident from the date of accident but respondent did not discharge his liability as such respondent is liable to pay penalty to the extent of 25% of the principal amount. Therefore, the respondent is directed to deposit 25% penalty of awarded amount i.e. Rs. 1,35,560/- 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.

15. Given under my hand and seal of this Authority on this 30th day of April, 2024.

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

