



BEFORE SH. K.M.SINGH, COMMISSIONER
(EMPLOYEE'S COMPENSATION ACT, 1923)
GOVT. OF NCT OF DELHI, LABOUR DEPARTMENT
(EAST DISTRICT)
VISHWAKARMA NAGAR, JHILMIL COLONY,
DELHI-110095

No. F. CEC-D/ED/25/2020 2961-46 Dated: 25-07-22

In the matter of: -

1. Smt. Haseebun Nesha (Wife of Deceased)
W/o Late Md. Nawaz Sharif
2. Master Ali Akabar S/o Late Md. Nawaz Sharif
Through his mother and Natural Guardian
Haseebun Nesha
3. Sabiya Khatoon S/o Late Md. Nawaz Sharif
Through his mother and Natural Guardian
Haseebun Nesha
4. Md. Ali, F/o Late Md. Nawaz Sharif
S/o of Mir Najir

All are Resident of:

Village - Balhi, Post-Chainpur
East Champaran, Turkaulia
Bihar-845437

Presently at: 13/196, Block-13
Trilokpuri, Chilla Saroda, Delhi-110091

.....Claimants

Versus

1. Sh. Rakesh Sood S/o Ramesh Chand sood
R/o H.No.-1315, New Janta Colony
NIT Faridabad, Haryana, Faridabad-121001Respondent-1
2. United India Insurance Company Ltd.
Padam Singh Road, Karol Bagh
New Delhi, Central Delhi-110005 ...Respondent No.2



ORDER

1. Vide this order, I shall dispose off the claim application dated 26.11.2020 filed by the claimant Smt. Haseebun Nesha, wife of deceased Late Md. Nawaj Sharif and others received in this office on 10.12.2020 seeking compensation under the Employees Compensation Act, 1923 (hereinafter referred to as 'Act').
2. That the claimant has stated that she is the widow of deceased Md. Nawaj Sharif who expired on 17.07.20 at 3.40 P.M. while driving the bus on the road at Ex-press way under the employment of Respondent-1 as he met with an accident and sustained grievous injuries and died in the hospital on the next day of accident i.e. on 17.07.2020 at Oxygen Hospital Trauma & Cancer Centre near Agra Express way, Lucknow. It has been further stated that the deceased was driving the bus bearing no. HR-38A B4719 chassis no. MEC3476EALP092354 on 16.07.2020 under the employment of Respondent No.1 and while coming back from Haryana and when he reached the Express way, all of a sudden an offending vehicle came in very fast speed and hit the bus and thereafter he was sent to the hospital at Oxygen Hospital Trauma & Cancer Centre where he expired on 17.07.2020. It has been stated that FIR No. 0187 dated 22.07.20 was registered at P.S. Airwakra, Distt. Auraiya, U.P. and PMR was conducted at the district Auraiya, U.P, on 17.07.2020 and the corresponding injuries were found on the body of deceased. It has been stated that an accident occurred while the deceased was working under the employment of Respondent-1. It has also been stated that the deceased was earning Rs. 20,000/- to 25,000/- per



month with over time and daily food expenses and he was 30 years old. The claimant has further stated that the vehicle was insured with R-2 who being the insurer is also liable to indemnify the claimant and thus both the Respondents are jointly and severally liable to pay the compensation to the claimants for the accident occurred on duty with Respondent-1 and in the last has prayed to allow the claim-petition for the sum of Rs. 35 Lakhs with interest @ 18% till realization.

3. That the notices were sent to both the Respondents, both the Respondents appeared and filed reply. Respondent-2 vide written reply dated 22.01.2021 has taken objection that the case is not maintainable as there is delay in FIR for 6 days as the date of accident is 16.07.2020 and date of FIR is 22.07.20. It has also been stated that there is no document filed by Respondent-1 to prove employer-employee relationship between the claimant and Respondent-1. It has been submitted that the Vehicle No. HR-38A B4719 was insured with them vide Policy No. 0407003119P114427342 issued on 07.02.2020 and valid upto 06.02.21 issued in the name of Rakesh Sood. Responent-2 has prayed to dismiss the claim-petition of the claimant.

4. That Respondent-1 vide their written reply dated 25.02.2021 has submitted that the vehicle in question was given to the deceased and due to rash and negligent driving, he met with an accident and succumbed to death. FIR No. 0187/2020 u/sec. 279/337/304A of IPC has been registered at P.S. Airwakatra. It has been stated by the Respondent that vehicle was insured with Responent-2 vide Policy No. 0407003119P114427342 issued on 07.02.2020 and valid upto 06.02.2021. It has also been stated by Respondent-1 that they

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have paid Rs.1,00,000/- to the deceased father and brother of deceased on humanitarian ground. Responent-1 has also stated that the vehicle was mechanically fit and functioning properly as they have purchased the new vehicle and have denied the rest of contents of the claim.

5. That rejoinder to reply was filed by Respondent-1 & Respondent-2 was filed by claimant's side denying the contents of reply filed by them and reiterating the contents of claim.

6. On pleadings of both the parties, following issues were framed as agreed by all the parties:-

i) *Whether the claimants/LRs of deceased Md. Nawaj Sharif are entitled for death compensation on account of death of Md. Nawaj Sharif arising out of and during the course of employment?*

ii) *And if, say to what amount of compensation the claimants are entitled to?*

iii) *Any other relief?*

7. That the claimant filed evidence by way of affidavit dated 27.03.2021 duly attested by the Oath Commissioner Exb. WW1/A alongwith documents CW1/A to CW1/10 i.e. Copy of Aadhaar Card Exb. CW1/, Birth certificates of LRs/claimant-2 and Claimant-3 Exb. CW1/2 and CW1/, Aadhar Card of claimant No.4 Exb. CW1/4, Ration-card of claimants Exb. CW1/5, copy of Aadhar-card of deceased Exb. CW1/6, DL of deceased Exb. CW1/7, Death certificate of deceased Exb. CW1/8, copy of FIR Exb. CW1/9 and copy of FIR



u/sec. 173 (2 pages) Exb. CW1/10. The contents of the affidavit are corroborative with the claim application.

8. The claimant was crossed by AR of Respondent-2 and nothing adverse has come on record.

9. That Respondent-1 did not cross the claimant. That Respondent-1 and Respondent-2 neither filed any evidence nor produced any documents in support of their contents.

10. That all the parties argued the matter making the same submissions and taking the same stand as taken by them in their claim and reply.

11. That Respondent-1 & Respondent-2 filed reply to show cause notice for imposition of penalty. Respondent-1 has taken the stand that they made the payment of Rs.1,00,000/- in cash and Rs.50,000/- through bank cash and the payment of Rs. 50,000/- through bank cash has been admitted to be paid to the family of dependents by Counsel of claimant. Therefore, no penalty should be imposed on them. Respondent-2 also filed reply to the show-cause notice stated that Insurance Company is not liable for payment of penalty as the insurer act stipulates that the employer is liable for any amount of penalty.

12. That from the documents filed by the claimant, it is seen that the deceased was admitted in Govt. Medical College and Associated Hospitals Kannauj on 16.07.20 at 2.55 P.M. and was discharged at 16.07.2020 at 5.00 P.M. with provisional diagnosis RTA and leg injuries. It is mentioned in the summary that the deceased was presented in the emergency department due to pain and bleeding from his right leg after he met road accident and he



was managed adequately in the hospital and left against medical advice.

13. The death certificate issued by Oxygen Hospital Trauma & Cancer Centre, Kakori Road, Mohan Road near Agra Expressway, Lucknow shows that he was admitted in hospital on 16.07.2020 at a case of RTA# Rt tibia & blunt injury and expired on 17.07.20. The contents of F.I.R No.0187/2020 u/sec. 279/337/304A of IPC have been registered at P.S. Airwakra Distt., Auraiya, U.P. explains that the deceased met with an accident on 16.07.20 and expired on 17.07.2020. The final report with regard to FIR has also been filed before the Court wherein the injury officer has submitted that the deceased expired due to hitting of the bus because of sleep nap.

14. In view of the above facts and circumstances of the case and admission of employer-employee relationship between the deceased and Respondent-1 and also of the admission by the respondent-1 that the deceased has expired due to accident occurred during the course of employment, which is also assisted by the contents of FIR and final report of Police Enquiry Officer. It is held that the claimant is entitled for compensation on account of death of Md. Nawaj Sharif during the course of employment. Since Respondent-1 has taken the Insurance vide Policy No. 0407003119P114427342 issued on 07.02.20 and valid upto 06.02.21 and the accident occurred during this period resulting into death of deceased Md. Nawaj Sharif, therefore, the claimant is also entitled for compensation amount towards death of her husband from Respondent-2.



15. That the age of the deceased has mentioned as 30 years on all the medical records, 25 years on the death certificate issued by Oxygen Hospital Trauma & Cancer Centre, Kakori Mod, Mohan road, Agra Expressway, Lucknow. The claimant has filed copy of Aadhar Card bearing no. 822574145353 and DL no. DL:BR24 20140084222 wherein the date of birth of deceased Sh. Nawaj Sharif has been mentioned as 18.08.1990 and therefore, the age of the deceased is considered as 30 years as on date of accident.

16. That in view of the above facts and circumstances and on the basis of 30 years of age the relevant applicable factor i.e. 207.98 and wages of Rs.15,000/- per month is being considered for the purpose of calculation and thus, the amount of compensation to which claimants are entitled is calculated as under:-

(i) Relevant factor of 30 years of age = 207.98

(ii) 50% of last drawn salary @ Rs. 15,000/- pm =Rs.
7,500/-

(iii) Amount of Compensation = 207.98 X 7,500
=Rs. 15,59,850/-

17. That in view of above facts and circumstances and the documents placed on record, it is held that the claimants are entitled to receive an amount of Rs. 15,59,850/- as death compensation plus Rs.5,000/- as funeral expenses in respect of death of deceased from the respondent no.2.

18. That as far as imposition of penalty is concerned, the respondent has not submitted any proof of payment made to



claimant therefore penalty @ 20% of compensation amount of Rs.15,59,850/- which comes to Rs.3,11,970/- is also awarded to the claimant.

19. That as per the provisions of the Act, the respondent should have made the payment of compensation within one month from the date it fell due i.e.16.08.2020, but the respondent failed to do so. Therefore, as per the provisions of Clause(a) of Sub Section (3) of Section 4A of the Act, the claimant is also entitled for simple interest @ 12% p.a. on the amount of compensation i.e. Rs. 15,59,850/- w.e.f. 16.08.2020 till the date of realization of the compensation amount by the respondent no.2 alongwith penalty amount of Rs. 3,11,970/-.

20. That as decided above, the Respondent No-2 M/s United Indian Insurance Co. Ltd. is hereby directed to deposit the above amount of Rs. 15,59,850/- alongwith simple interest @ 12% per annum w.e.f. 16.08.2020 till the date of payment plus Rs. 5,000/- as funeral charges and penalty amount of Rs. 3,11,970/- by way of Demand Draft/Pay Order in favour of "**Commissioner Employees Compensation District East**" within 30 days from today, failing which proceedings to recover the amount of compensation as well as the interest, as an arrear of land revenue, shall be initiated as per the provisions of Section 31 of the Act.

Given under my hand and seal on 25th day of July , 2022.



(K.M.SINGH)
Commissioner, Employees Compensation
(East Distt.)