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COMMISSIONER UNDER EMPLOYEE'S COMPENSATION ACT, 1923
(DISTT. SOUTH-EAST)
LABOUR DEPARTMENT, GOVT. OF NCT OF DELHI
LABOUR WELFARE CENTER, BAL MUKUND KHAND
GIRI NAGAR, KALKAJI NEW DELHI-110019

CEC/SED/D/36/23 3027-3030

Dated 23/07/24

In the matter of:

Smt. Sunita Devi & Ors.
R/o Village Kathni, Post BichchhiChanchar
Thana Tatia Bumber
District Munger, Bihar - 811213

.....Claimant

Sh. Anil Kumar Singh, Adv.
Seat No. 126, P.S. Rath Block
Tis Hazari Courts, Delhi - 110054

....Claimant's Counsel

V/s

Sh. Tarun Garg (Owner of Factory)
98/3, Okhla Phase-2
Okhla Industrial Area, New Delhi - 110020

Also at:
A-1/140, 2nd Floor
Panchsheel Enclave, New Delhi - 110020.

.....Respondent

ORDER

1. Whereas an accident intimation was received from SHO, Okhla Industrial Area dated 26.08.2023 along with FIR No. 0569 dated 24.08.2023 regarding injury/death of workers deployed at construction site-98/3, Okhla Phase-2, Okhla Industrial Area, New Delhi-110020. Another intimation of the same accident also came through Assistant Director, Industrial Safety & Health/Inspector under BOCW, GNCTD dated 31.08.2023 wherein enquiry was sought w.r.t. BOCW registration status of the accident site by the employer. Taking cognizance of the intimation, a notice u/s 10A of the Employees Compensation Act, 1923 (hereinafter called the Act) was issued on 28.08.2023 by the then Ld. Commissioner Employees Compensation. In the said notice, it was mentioned that two workmen Late Sh. Raman Kumar S/o Sh. Vinod and Late Sh. Mantu Singh S/o Unknown both succumbed to injury sustained during and in course of employment with the owner Sh. Tarun Garg while working at employer's construction site at Plot No. A-98/3, Okhla

Received
on behalf of
Tarun Garg
H BHA
23-7-24

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Phase-2, New Delhi - 110020, also few others were stated to have got injured on the same site.

2. In the aforesaid said notice, an interim direction was issued on 28.08.2023 according to which, Sh. Tarun Garg was directed to deposit an adhoc amount of Rs.17,02,850/- and Rs.11,53,175/- respectively towards death compensation calculated in respect of two aforesaid deceased persons/employees. The amount was to be deposited by way of demand draft in favor of CEC, South East within 30 days of passing of the order, failing which interest @12% was to be imposed upon employer for delayed payment. Further, Sh. Tarun Garg was directed to appear before the CEC on 04.09.2023 along with his written reply. As regards, other injured workmen, the compensation amount were to be calculated based upon their percentage of temporary/permanent disablement.
3. Later on, claimant Smt. Sunita Devi & Ors. have filed their claim petition u/s 22 of the Act of 1923 against the respondent Sh. Tarun Garg who is stated to be the owner of the under-construction factory at 98/3, Okhla Phase-2, Okhla Indl. Area, New Delhi-110020 residing at A-1/140, 2nd Floor, Panchsheel Enclave, New Delhi. In the said petition, the deceased's wife Smt. Sunita Devi stated that on 24.08.2023, her husband Late Sh. Raman Kumar was working along with other labourers at the construction site. Further alleged that while working they requested the respondent to provide safety & security measures to them but the respondent compelled them to do the work without providing any such measures. Resultantly, the old constructed walls collapsed and the Malwa fell upon the basement area and due to which her husband Sh. Raman Kumar and other labour Sh. Raman died while few other labourers were injured. An FIR No. 0569/2023 dated 24.08.2023 was registered by PS Okhla Indl. Area u/s 288/337/304A of IPC in this connection. The postmortem of the deceased Raman Kumar was conducted by the concerned Hospital. Further submitted that the parents of the deceased are pre-deceased and they have given the confirmation that there are no other legal heirs of deceased except for Smt. Sunita Devi & Ors. At the time of accident, the deceased is stated to be of 19 years of age and was in good health condition and was also earning well for his family and dependents, minor children, etc. The claimant stated that they are entitled for compensation of Rs.25,00,000/- from the respondent because of the alleged negligence and carelessness on the part of respondent causing danger to the life of the workmen who were working at the construction site. They further stated they were working under the employment of respondent Sh. Tarun Garg and the CEC has the jurisdiction to entertain this claim. In the end, the claimants prayed CEC to pass appropriate order granting them relief of death compensation including litigation charges, interest and penalty, etc. Along with the claim, claimants have filed supporting documents like affidavit, exemption of court fees, list of documents, aadhaar card of the dependents and FIR, etc.
4. Consequent upon receipt of the claim, a notice dated 31.10.2023 and 19.01.2024 was issued for appearance of parties before CEC on 23.11.2023 and 21.02.2024 respectively. On 23.11.2023, Sh. Nitin Gupta, AR appeared on behalf of respondent and was directed by this Court to file his WS on Next date of hearing. The WS was not filed by respondent on 20.12.2023, 17.01.2024, 21.02.2024, 03.04.2024 and 30.05.2024.



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5. Thereafter, a joint application was filed by the parties on dated 09.07.2024 requesting the CEC for early hearing in this case, in view of a settlement that had already happened between them after independent discussions. Taking cognizance of this joint application, a notice was issued to the parties for their appearance on 11.07.2024 through e-mail/phone.
6. On 11.07.2024, claimant Smt. Sunita Devi moved an application for withdrawal of the claim petition which was filed by her against the respondent Sh. Tarun Garg in view of the settlement underwent by her individually and directly with the respondent on behalf of her family. Along with this application, she has filed affidavit, memorandum of settlement, photocopies of DD and other amount received/proposed to be received by her. Statement of Smt. Sunita Devi was recorded over oath on 11.07.2024 in the presence of her AR/counsel Sh. A.K. Singh and respondent Sh. Tarun Garg.
9. An Out-of-Court settlement has taken place in this case between the parties; documented in shape of terms & conditions strictly governed by MoS dated 24.06.2024. Payment terms, modalities, dates and events, amount, beneficiaries, etc. all settled and adhered as per MoS. The Memorandum of Agreement and Settlement has not been recorded u/s 28 of the EC Act, 1923 and the applicable rules as the same is not applicable in case of death. The CEC after recording statement of claimants allows the application for withdrawal preferred by claimant side. Based upon the terms & conditions as mentioned in the memorandum of settlement, the claim filed by Smt. Sunita Devi & Ors. is hereby disposed of as withdrawn.
7. Parties are further advised to strictly abide by the terms of MoS dated 24.06.2024 and in case of any violation/breach of MoS, they would be at liberty to seek legal remedy.

Given under my hand and seal of this 23rd day of July, 2024.

U.K. Sinha
23/07/2024

(U.K. SINHA)

COMMISSIONER

UNDER EMPLOYEE'S COMPENSATION ACT

U.K. SINHA
COMMISSIONER

EMPLOYEES COMPENSATION ACT 1923

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