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o/c

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/1/07/24 3031-3034

Dated 23/07/24

In the matter of:

Sh. Nitish Kumar
R/o Village Kathni, Post BichchhiChanchar
Thana Tatia Bumber
District Munger, Bihar - 811213

.....Claimant

Sh. Anil Kumar Singh, Adv.
Seat No. 126, P.S. Rathi 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 Phase-2, New Delhi - 110020, also few others were stated to have got injured on the same site.



11/07/2024
CWC/MD/1/07/24



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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 too liable 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. The claimant Sh. Nitish Kumar has filed his claim petition u/s 22 of the EC Act, 1923 against the respondent Sh. Tarun Garg who is stated to be the owner of the 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 claimant stated that on 24.08.2023, he was working with other labourers at the construction site. While working they requested the respondent to provide safety measures & security to them that the respondent compelled him to do the work without providing any safety measures. Resultantly, the constructed walls collapsed and the Malwa fell upon the basement area and due to which claimant Sh. Nitish got injured who is stated to be 24 years of age and having good and strong health and was earning well to bring up his ailing parents. On making Police Complaint at PCR, injured were taken to AIIMS Hospital where MLC No. 500391882/24Aug2023 dated 24.08.2023 by the treating doctor and he was operated in the injured and other parts of the body. An FIR No. 0569/2023 dated 24.08.2023 was registered by PS Okhla Indl. Area u/s 288/337/304A of IPC. For meeting medical expenses, he has incurred Rs.2,00,000/- which he has borrowed from his relatives and well-wishers. He has also spent Rs.2,00,000/- as special diet conveyance and attendant charges related to his disability. The claimant stated that they are entitled for compensation of Rs.15,00,000/- from the respondent because of negligency and carelessness on the part of respondent causing danger to the life of the workmen who were working at the construction site. He further stated he was working under the employment of respondent Sh. Tarun Garg and the CEC has the jurisdiction to entertain this claim. In the end, the claimant prayed to pass appropriate order related to injury compensation including litigation charges of Rs.50,000/-, interest @24% and penalty @50%, etc. Along with the claim, he has filed supporting documents like affidavit, exemption of court fees, list of documents, aadhaar card of the dependents and FIR.
4. Consequent upon receipt of the claim, notice dated 01.04.2024 and 03.07.2024 was issued for appearance of parties on 24.04.2024 and 30.05.2024 respectively. Both of these dates, none appeared from the respondent side.
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 the settlement that happened between them after negotiation. Taking cognizance of this joint application, notice was issued to the parties for their appearance on 11.07.2024 through e-mail/phone.
6. On 11.07.2024, claimant Sh. Nitish Kumar moved an application for withdrawal of the claim petition which was filed by his against the respondent Sh. Tarun Garg in view of the settlement underwent by his individually and directly with the respondent on behalf of





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himself. Along with this application, he has filed affidavit, memorandum of settlement, photocopies of DD and other amount received/proposed to be received by him. Statement of Sh. Nitish Kumar was recorded over oath on 11.07.2024 in the presence of her AR/counsel Sh. A.K. Singh and respondent Sh. Tarun Garg.

7. 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 as the same has not been filed as per the applicable rules and forms provided under the Rules. 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 Sh. Nitish Kumar is hereby disposed of as withdrawn.
8. Parties are further advised to strictly abide by the terms of MoS dated 26.06.2024 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)
COMMISSIONER

UNDER EMPLOYEE'S COMPENSATION ACT

U.K. SINHA
COMMISSIONER
EMPLOYEES COMPENSATION ACT, 1923