



Speed Post/Whatsapp/E-mail/
Courier/BH/Dast

**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**

No. CEC/SED/D/34/2023

Dated 27/5/24

In the matter of:

✓ Rekha Devi W/o Late Sh. Kanhaiya Mahto
R/o Nauhatta West, Ward No. 11
Nauhatta, Saharasa, Bihar-852123

.....Claimant

✓ Adv. Pulkit Prakash
03, Gurunaniak Market
Lajpat Nagar-IV
New Delhi - 110024.

.....Claimant's Counsel

V/s

✓ M/s Punit Enterprises
I-612, Hari Nagar Extension
Jaitpur, New Delhi-110044

✓ Also at:

M/s Punit Enterprises
Through its Owner
Sh. Punit Goyal S/o Sh. Kailash Chand Goyal
R/o H. No. 95, Ashoka Enclave,
Faridabad, Haryana-121003

.....Respondent

ORDER

1. This order shall dispose of the claim petition filed on 27.02.2023 by Smt. Rekha Devi, mother of deceased Sh. Kundan Kumar (hereinafter referred to as claimant) before the Commissioner under Employee's Compensation Act, 1923 (hereinafter referred to as the Act) at District South East, Labour Department, GNCTD against the management of M/s Punit Enterprises.
2. The brief of the case as per the petition is that Sh. Kundan Kumar s/o Sh. Kanhaiya Mahto and Smt. Rekha Devi joined the employment of M/s Punit Enterprises (hereinafter referred to as the Respondent) since 01.09.2022 at his unregistered shop which was engaged in the business of selling of paint & hardware. The deceased was given the responsibility to look after the day-to-day affairs of the store on the last drawn salary of Rs.16,000/- per month. On 11.03.2023, the owner of the store Sh. Punit Goyal has called upon some contractor/outside agency for building work in the shop that around 03:00 PM, a fire ignited from the welding torch inside the store/shop. Sh. Kundan Kumar was unable to escape from the shop, trapped and died in the said fire. The Police & the fire





official came to rescue and to extinguish the fire but they failed to locate the deceased. At 04:00 PM on the same day, Sh. Chandan Kumar, brother of the deceased went inside the burnt store and located the body of his brother. He was taken to Safdarjung Hospital, where the doctor declared him dead. An FIR against the employer u/s 285/304A of the IPC has been registered failing to install fire safety device in the shop. In April, 2023, Sh. Chandan Kumar has filed a claim for compensation before the Authority which was subsequently withdrawn in June, 2023 thereafter the present claim is being filed by the mother of the deceased. The employer has violated the part four of National Building Code which is related to fire and light safety measurements. They have also violated Delhi Building by laws. The employer is aware about the unfortunate death of Sh. Kundan Kumar, still they refused to pay the compensation to the claimant. The claimant is entitled for approximately Rs.18,00,000/- of compensation amount along with 50% penalty & interest calculated from the date it felt due excluding funeral charges. In the end, the claimant prayed to release the aforesaid death compensation amount as per the provisions of EC Act, 1923. Along with the claim, the petitioner has filed supporting documents including FIR, photographs & ID Proofs etc.

3. On receipt of the claim, notice dated 17.10.2023, 17.11.2023 was issued to the management but none appeared. On dated 15.01.2024, the claimant counsel moved application under Rule 20 of the EC Rules, 1924 for recording the address of the management at Sector-37, Faridabad. Thereafter, notice was issued to both the addresses of the management/owner of the firm on 16.01.2024, 28.02.2024 and 25.04.2024 as per the delivery confirmation of refusal vide speed post receipt no. ED499547935IN, the respondent management was proceeded ex-parte on 08.05.2024. Following issues were framed on this date:

(a) Whether the deceased met fatal injuries arise during and in course of employment and if so, what compensation amount is he entitled to and what directions are necessary.

(b) Relief.

4. Evidence WW-1/A by affidavit of Smt. Rekha Devi (mother of deceased) was filed on 21.08.2024 and matter was adjourned for tendering evidence which was done on 18.12.2024. In the evidence, the claimant relied upon documents such as copy of aadhar card exhibited as WW-1/1, photograph of store after accident exhibit RW-1/2, cremation record of deceased workman exhibited as W-1/3, copy of dead body receipt given by Police exhibited as AW-1/4, copy of postmortem receipt signed and stamped by Sr. Resident exhibited as WW-1/5, copy of FIR dated 12.03.2023 at Jaitpur Police Station exhibited as WW-1/6, copy of letter dated 12.03.2023 sent to SHO Jaitpur exhibited as WW-1/7, copy of letter dated 26.04.2023 addressed to DCP, South East exhibited as WW-1/8, copy of previous claim dated 03.04.2023 withdrawn on 13.06.2023 exhibited as WW-1/9. Statement of the claimant was recorded over Oath on 18.12.2024.
5. After hearing one sided oral argument from the Ld. Counsel of claimant Sh. Arjun Mohan, proceedings were concluded for order on 10.02.2025 with the direction to the claimant to file written arguments within two weeks, if any. No written argument was filed by the claimant side till 23.05.2025 and finally orders are passed accordingly. Due to administrative reasons, order could not be announced in the month of Feb., 2025.





6. In view of above-mentioned contexts, following are the vital facts which is highlighted beneath which have appropriate relevance with the case:

- a) The claim is preferred by the Smt. Rekha Devi mother of the deceased Late Sh. Jasbir (unmarried) wherein her son died due to fire accident during and in course of employment.
- b) Despite several notices, none appeared from respondent management and lastly proceeded ex-parte.
- c) Ex-parte evidence was filed and supporting documents exhibited are able to satisfy that accident occurred during and in course of employment when one of the employees of the M/s Punit Enterprises died due to fire accident.
- d) In the claim petition, it is not mentioned whether the deceased was married or unmarried at the time of accidental death and whether he has any son/daughter.

7. Findings:

After considering the documents on record, reply and arguments of the employer, the CEC is of the considered view that all the issues framed in this case is decided against the respondent and in favour of the claimant. Hence, the claimant Smt. Rekha Devi is found to be entitled for death compensation, along with interest, funeral expenses as per the provisions laid down under the EC Act, 1923. There appears to be no ESI coverage or any Mediclaim policy to cover the accident/death of employee of the management. The death compensation along with interest, funeral and which is the liability of the employer.

8. As per the Act, the death compensation in this case is calculated on the basis of age, relevant factor and wage limit of the deceased employee in respect of accident occurred on 11.03.2023 and subsequent death on 11.03.2023. In this case, no salary records of deceased employee Late Ms. Asha is available in case file, the same is restricted to Rs.15,000/- as per the maximum prevailing wage limit notified by the Government under the Act as per latest notification No. 71 (E) dated 03.01. 2020 the monthly wages for the purpose of sub section 1 of section 4 have been notified as Rs. 15,000/- with effect from the date of publication of this notification in official gazette. The age and age factor of the claimant is considered as 21 years and 224 as per Schedule IV of the Act. The age is taken as 21 years on the basis of Aadhar Card annexed with the claim.

Calculation of Principal Amount in respect of deceased employee Late Sh. Kundan Kumar:

As per Section 4(1)(a) of the Act in this case death of an employee, claim amount is calculated as under:

$$\begin{aligned} & 50\% \text{ of monthly wages} \times \text{age factor} \\ & = 50/100 \times 15000 \times 222.71 = \text{Rs.16,70,325/-} \end{aligned}$$





Speed Post/Whatsapp/E-mail/
Courier/BH/Dasti

The employer i.e. M/s Punit Enterprises is held liable to pay the principal amount of Rs.16,70,325/- (Rupees Sixteen Lakhs Seventy Thousand Three Hundred Twenty-Five Only)

Calculation of Interest:

Apart from above, since the employer/insurance company has failed to release the entitled death compensation amount within specified period as mentioned in the Act i.e. within one month from date of accident i.e. 11.04.2023. Therefore, the respondents are also liable to pay interest @ 12% per annum of the principal amount of Rs.16,70,325/- as per section 4A(3)(a) of the Act. The said interest is calculated w.e.f. 11.04.2023 till 10.02.2025 (the date on which proceedings were concluded for decision). The interest amount for the default period (01 years 10 months) i.e. 22% therefore comes to Rs.3,67,472/- which the respondent has to deposit along with the principal amount.

The Employer i.e. M/s Punit Enterprises is held liable to pay the interest of Rs.3,67,472/- (Rupees Three Lakhs Sixty-Seven Thousand Four Hundred Seventy-Two Only)

Calculation of Funeral Expenses:

The Employer i.e. M/s Punit Enterprises is held liable to pay the funeral expenses of Rs.5000/- (Rupees Five Thousand Only) as mentioned in the Act.

Calculation of Penalty Amount:

On perusal of the case file, it is observed that no notice for penalty has been issued u/s 4(A)3(b) of the EC Act, 1923 against the respondent, therefore the penalty is not being imposed at this point of time because it would lead to gross injustice to respondent.

9. The total liability at present against the respondent management including Principal, Interest, Funeral comes to Rs.20,42,797/- (Rupees Twenty Lakhs Forty-Two Thousand Seven Hundred Ninety-Seven Only) which needs to be deposited by way of Demand Draft in the name of Commissioner Employee's Compensation, South East.
10. It is pertinent to mention that failure the aforesaid amount by respondent within 30 days of passing of this order, shall attract the recovery proceedings against respondent as per the provisions of the EC Act. In case the ordered amount is not deposited respondent within 30 days of passing of this order additional interest w.e.f. 11.02.2025 till the period of deposit shall be added in the amount mentioned in the above Para.
11. With this order, the respondent i.e. M/s Punit Enterprises are hereby given show cause to give their explanation as to why penalty @ 50% should not be imposed upon each of them for making delay in the payment of death compensation amount u/s 4(A)3(b) to the dependent of the deceased late Sh. Kundan Kumar. Respondent has to appear in person or through their AR on next date of hearing fixed for **12.06.2025 at 10:30 AM**.

Given under my hand and seal of this 22nd day of May, 2025.

(U.K. SINHA)
COMMISSIONER UNDER
EMPLOYEE'S COMPENSATION

