



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/SD/I/41/2023 18015-17

Dated 26/12/2024

In the matter of:

Sh. Sushil Kumar S/o Sh. Chhiddi Singh
R/o House No. 75, Gali No. 5
Mohan Baba Nagar, Tajpur Extension
Badarpur, New Delhi-110044

.....Claimant

Delhi Karamchari Sangh
W-4, In front of Kalkaji Bus Depot
Govindpuri, New Delhi - 110019

.....Claimant's Counsel

V/s

M/s Amazon
Branch NZMS
B-58, Okhla Phase-1, New Delhi-110020

.....Respondent

ORDER

1. This order shall dispose of the claim petition filed by Sh. Sushil Kumar (hereinafter referred to as claimant) filed on 01.11.2023 before the Commissioner under Employee's Compensation under Employee's Compensation Act, 1923 (hereinafter referred to as the Act) District South East O/o Labour Department claiming injury compensation.
2. Sh. Sushil Kumar (Claimant) who is stated to be engaged as a "Field Boy" since 01.05.2023 on the last drawn salary of Rs.16,900/- on the employment of M/s Amazon. He was not provided with statutory benefits like ESI, PF, appointment letter, attendance card, wage slip, overtime, leaves, bonus and was being accordingly harassed. On 17.06.2023, while he was on official duty he met with an accident and his left hand was fractured, was taken to Shivalik Hospital, Faridabad. Later on, he was transferred to Jiwan Hospital. An amount of approximately Rs.2,00,000/- was expended, out of which the management has given only Rs.60,000/- and the rest has to be borne by the family members of the injured. In the end, the claimant has prayed to the CEC for issuing necessary directions to the management, for release of salary, fooding allowance, medical expenditure, reimbursement and other relief under the EC Act, 1923. Along with the claim, summary of medical expenditure, demand notice and speed post receipt, aadhar card of the injured, various medical treatment related documents have been filed.





3. Upon receipt of the claim, notice was issued for the appearance of respondent management/employer vide notice dated 01.12.2023, 08.12.2023, 11.01.2024. On none of these dates, the management appeared and hence was proceeded ex-parte on 13.02.2024.
4. Following issues were framed on 13.02.2024 to be decided in this case:
- Whether the claimant has sustained injuries in the course of employment and if so?
 - Whether the claimant is entitled for payment of compensation under EC Act, 1923
 - Relief.
5. The matter was fixed for filing ex-parte evidence of 27.03.2024 and 16.07.2024. Evidence was filed on 29.08.2024 and was tendered on the same day. Copy of affidavit is exhibited as WW-1/1, copy of demand notice dated 18.10.2023 exhibited as WW-1/2, speed post receipt exhibited as WW-1/3, copy of expenses exhibited as WW-1/4, copy of Shivalik Hospital Bills exhibited as WW-1/5, copy of Jeewan Hospital & Nursing Home Bills exhibited as WW-1/6, copy of total expenses exhibited as WW-1/7. Written arguments were filed by the claimant on 18.09.2024 and proceedings were concluded for order. In the written arguments, the claimant has repeated the contents of the claim petition and nothing has been mentioned about the case proceedings.
6. In this case, the respondent never appeared once nor filed any WS and thus proceeded ex-parte which shows their insensitive approach towards their injured employee. Considering the ex-parte evidence, all the issues framed in this case are decided in favor of the claimant and against the respondent. The medical report reveals that he met with an accident while he was on duty and he has been partly reimbursed an amount of Rs.68,000/- by the management of M/s Amazon.
7. In this case, no medical disability examination has been conducted to find out the whether the disablement either total or partial was of permanent in nature. Also, there was no request from the claimant side in which he has desired to undergo disability examination through a Medical Board of Govt. Hospital. In view of this, the CEC has no option but to allow relief of temporarily disablement as per section 4(1)(d) of the Act which is equal to half-monthly payment of the sum equivalent to twenty-five per cent of the monthly wages of the employee to be paid in accordance with sub-section 2.
8. As per the Act, the half-monthly payment is payable up to the period of disablement or for a period of five years, whichever is shorter. In this case, the medical documents are available only up to first week of October, 2023 and therefore it is presumed that the disability has not lasted beyond first week of October, 2023.
9. In this case, the accident took place on 17.06.2023 which is counted as date of disablement because it lasted for period of 28 days or more. The half-monthly payment shall start from 03.07.2023 till the date the claimant was under treatment till 04.10.2023. In this case, no salary record of injured employee Sh. Sushil Kumar 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.

10. The half-monthly payment is calculated as under:

$$25\% \text{ of the monthly wages} = 25\% \text{ of Rs.15,000/-} = \text{Rs.3,750/-}$$

This amount of Rs.3750/- is payable in respect of 07 half-monthly periods (03.07.2023 till 04.10.2023), the total comes to Rs.3750/- X 7 = Rs.26,250/-. Since, the half-monthly payment was not released by the employer during this period and hence additional interest of Rs.3806/- @ 12% per annum is charged upon the computed lumpsum half-monthly payment Rs.26,250/- from 03.07.2023 (first instalment of half-monthly due) till 18.09.2024 (proceedings were concluded for order).

The proviso (a) and (b) of clause 4(2) are not applicable in this case, because no lumpsum or half-monthly payment has been received by the injured employee from the employer by way of compensation during the period of disablement prior to receipt of such lumpsum payment or the first half-monthly payment as the case may be. Further, half-monthly payment in this case has not exceeded the amount by which half the amount of monthly wages of the employee before the accident exceeds half the amount of such wages which is earning after the accident.

11. This computation of half monthly payment for seven such period which has been granted up to first week of October, 2023 is subject to review under section 6 of the Act.

- (a) The application in this regard can be filed by the employee or employer when there is a change in the medical condition subject to production of certificate of a qualified medical practitioner.
- (b) If, temporary disablement of claimant continued beyond first week of October, 2023 and is still continuing, the quantum and period of half-monthly payment scheme can be revised accordingly in favour of the claimant.
- (c) In case, the temporary disablement has converted into permanent disablement, the same is required to be established by the Medical Disability Board of a Govt. Hospital and accordingly accident compensation for permanent disability shall be calculated as per section 4(1)(c) of the Act. The permanent disability compensation amount will be subjected to such deductions of amount as already received by the claimant by way of lumpsum half-monthly payment of seven instalments as ordered.

12. Further, under section 4(2A) of the Act, the injured employee salary entitled for reimbursement of actual medical expenditure incurred by him for treatment of his injury for during course of employment. As per exhibit WW-1/4, the outstanding medical expenditure is Rs.84,944/- to which the claimant is entitled for from the respondent.





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13. Accordingly, the Respondent management/employer i.e. M/s Amazon is directed to pay sum total comes to Rs.1,15,000/- (Rupees One Lakh Fifteen-Thousand Only) within 30 days of passing of this order directly to the claimant within 30 days. This amount includes total value of half-monthly payment, interest for non-payment and medical expenses, which has been calculated in above paragraphs 10 & 12. Failure to make this payment shall attract recovery proceedings against respondent as per the provisions of the EC Act. In case the ordered amount is not deposited within 30 days of this order, additional interest @12% per annum on Rs.1,15,000/- w.e.f. 18.09.2024 shall be added in the amount till the actual date of realization.

Given under my hand and seal of this 26th day of December, 2024.

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

