

**IN THE COURT OF SH. S.C YADAV, COMMISSIONER  
(UNDER EMPLOYEES' COMPENSATION ACT, 1923)  
LABOUR DEPARTMENT, GOVT. OF N.C.T. OF DELHI  
5, SHAM NATH MARG, DELHI-110054**

No. CEC/WD/1/37/18/ 268.

Dated: 19/10/2022.

IN THE MATTER OF:

**Sh. Luvkush S/o Ram Ashish Shah**  
House No. 22B, Ground Floor, IG Colony,  
Kunwar Singh Nagar,  
Nangloi, Delhi – 110041

.....Applicant/Claimant

V/s

**Sh. Mukesh Bansal**  
H.No 56-57,  
Yadav Park Extension  
Near Shamshan Ghat,  
Nangloi Najafgarh Road, New Delhi – 110041

.....Respondent

**ORDER**

1. By this order I will dispose off claim petition dated 18.07.18 filed by claimant for seeking injury compensation under Employees Compensation Act, 1923.
2. Claimant in the claim petition stated that respondent is running factory in the name of M/s Bansal Enterprises at plot no. 1/33 House no. 09/15, Kamruddin Nagar, Village Yadav Park Extn., Opp. Shamshan Ghat, Nangloi, Delhi. It is further stated that claimant was working as an machine operator with the respondent since last two months. Claimant was working on cardboard cutting machine. It is also submitted that cardboard machine was not working properly since long time, due to which there was every apprehension of the accident as there was technical defect in the machine. This technical defect was reported by claimant at various times but all was in vain. Even respondent didn't provide any safety kits or equipments to the claimant. Despite having notice of the defective machine on which any time accident can take place. On 14.01.18 around 12:30 PM claimant was working on the said machine and due to faulty machine he met with an accident in which fingers of the



right hand of the claimant came into the cutter machine, due to which he received grievous injuries in right hand. After the accident he was immediately taken to the Ashirward Nursing Home, Uttam Nagar, Delhi where as MLC no. 372/18 was prepared and the Police was called and an FIR bearing no 026/18 u/s 287/337 IPC was registered in P.S Nihal Vihar, Delhi. Due to this accident claimant's right hand thumb had to be amputated due to which he become totally unable to operate the machine which he was doing post the accident and he is not able to work and he was compelled to leave his job, as he is unable to perform duty after the accident. Respondent despite having notice of the accident and claimant rendered unemployment due to this accident; the respondent had paid no heed to pay compensation to the claimant. The claimant sent a demand notice dated 02.04.2018 through speed post, which is returned unanswered. In the last claimant prayed that directions to be given to the respondent to pay compensation of Rs. 20 Lakhs along with other reliefs. Along with claim the claimant filed demand notice dated 02.04.2018, copy of FIR, and treatment documents of the claimant.

3. Summons were sent to the respondents with direction to appear before this Authority to file reply in the matter. Despite various summons such as 14.06.2019, 06.08.2019, 20.08.2019, and 04.09.2019 sent to the respondents and the same as were served upon respondents neither respondent appeared nor filed any defence in the matter. As such respondent was proceeded Ex-parte on 29.10.2019.
4. Thereafter, claimant filed his evidence by way of affidavit Ex. CW1/A. The statement of claimant was also recorded on 30.12.2021 before this authority. The contents of affidavit are corroborative to those claim petition. Medical examination was also conducted before medical board in Deen Dayal Upadhyay Hospital and the board has assessed 59% disability in relation to right upper limb (as per disability certificated dated 23.04.2019 No. F.1(1)/DDU/MB/2019/10,016).
5. Since the sufficient opportunities were provided to the respondent to defend this case but they didn't file any defence in this case, as such respondent was proceeded Ex parte and in view of this I have left no option except to consider and allow the claim of claimant. From the submission of the claimant it is proved that claimant was employee of the respondent and he met with an accident out of and in the course of his employment on 14.01.2018 at 12:30 PM. Respondent had not paid any compensation amount to the claimant as per sec 3 of the Act. Being an employer





respondent is liable to pay compensation to the claimant. The medical board has assessed 59% permanent disability to the claimant, but I am not convinced with the opinion of the medical board as today claimant is present before this court and I saw that his right hand has totally become un-functional for the work which he was performing post the accident as a machine operator. Thumb of the right hand of claimant has been amputated and after this accident claimant is little bit able to work from his left hand only. In view of this it is the 100% loss of earning capacity of the claimant.

6. Therefore after hearing the submission of learned counsel Sh. Ahwani Mishra. I hold that in this accident claimant become 100% disabled and he is liable to receive compensation from the respondent.

7. In view of this for calculation of compensation Age of claimant has been taken as 21 years (on the basis of date of birth 01.01.1997 as mentioned in his Aadhar card No. 520956384097), and relevant factor as per age 222.71 and 60% of Rs. 8000/- as restricted under the Act.

8. In the given wage, age and loss of earning capacity the applicant/claimant is entitled to compensation as under:

i)	Relevant factor of 21 years	:	222.71
ii)	60% of wages @ Rs. 8000/- pm	:	Rs. 4800/-
iii)	Amount of compensation		

$$222.71 \times 4800 = \text{Rs. } 10,69,008/-$$

The applicant/claimant is also entitled to interest as per Section 4A of the 'Act' @ 12% per annum from 30 days after the accident.

9. Therefore, the applicant/claimant is entitled to receive injury compensation from respondent. Hence the respondent is directed to deposit before this Authority an amount of **Rs. 10,69,008/ (Rs. Ten lacs Sixty Nine thousand eight only)** on account of compensation payable to the applicant/claimant along with interest as per Section 4A @ 12% P.A. w.e.f. 13.02.2018, till its realization. Since medical bills on which the claimant has relied have not been exhibited properly as such no direction can be issued for payment of medical expenses.



10. From the beginning in this case conduct of the respondent was not found considerable as such he was proceed ex-parte, hence on the issue of the penalty I am also of considered view that since respondent had not complied mandate of section 4A (3) as such he is liable to pay penalty. Keeping in view the facts and circumstances, I impose a penalty of 25% of the principal amount on the respondent.

11. In view of above discussion, I direct respondent to **deposit Rs. 10,69,008/ (Rs. Ten lacs Sixty Nine thousand eight only) as compensation along with 12% interest w.e.f. 13.02.2018 till its realization** as per section 12(1) of the EC Act, 1923, the respondent is further directed to **deposit 25% penalty of awarded amount i.e. Rs. 2,67,252/- within 30 days** from the date of order by way of Demand draft in favour of "Commissioner Employees Compensation", failing, which same shall be recovered as per provision of the Act.

12. Given under my hand and seal of this Authority on this 19<sup>th</sup> day of October, 2022.

(S.C. Yadav)

Commissioner

Employee's Compensation Act, 1923

