

BEFORE 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. ECI/07/NW/2018/ 472.

Dated: 23/02/2024.

IN THE MATTER OF:

Sh. Lokesh Kumar S/o Sh. Rajender Singh
R/o H. No. E-352, JJ Colony, Wazirpur,
New Delhi

..... Claimant/Petitioner

V/s

Sh. Nakul Gupta S/o Proprietor Smt Rani Gupta
Owner of A-62,
Sawan Park, Phase-III,
Ashok Vihar, New Delhi-110052

....Respondent No.1

Smt. Rani Gupta w/o Sh Satyapal Gupta
Proprietor of the firm
A-62,
Sawan Park, Phase-III,
Ashok Vihar, New Delhi-110052

....Respondent No. 2

Sh Satyapal Gupta
Registered owner of the property
A-62,
Sawan Park, Phase-III,
Ashok Vihar, New Delhi-110052

....Respondent No. 3

ORDER

1. By this order, I will dispose of application dated 29/09/2023 regarding issue of penalty.
2. In application claimant submitted that vide order dated 12/02/2021 claimant was made entitled to receive injury compensation amounting Rs. 2,33,767/- along with interest @ 12% per annum, w.e.f. 23/03/2017 till its realization. After the order respondent did not honour the order of this Authority to deposit the ordered amount and thus the recovery certificate was issued against the respondent as per



provision of the Act. Further claimant submitted that accident took place on 23/03/2017 while the claimant was employed as a Bar-bender / labourer with the respondent and out of and in the course of his employment he has sustained grievous injuries on his right leg. Despite order the respondent has not deposited the ordered amount as such recovery certificate has been issued. As per the provision of the Act compensation due payable within 30 days from the date of accident. The respondent has not deposited the compensation within the time frame manner as such claimant is entitled to get penalty also from the respondent.

3. Show Cause notice dated 19/10/2023 u/s 4A of Act was issued to the respondents to file reply, respondent filed its reply and stated therein that *"That the present application filed by applicant is untenable in the eyes of law as the respondent no. 3 is no more. That the respondent no. 2 is the mother of respondent no. 1 (answering respondent) and the answering respondent is authorised to take care of day to day working of the firm. That the respondents are in bad financial situation. They are already indebted to many creditors. That the answering respondent no. 1 is a law abiding citizen and was permitted to pay the compensation amount in instalments by the SDM (Saraswati Vihar), Old Middle School Building, Lawrence Road @12% per annum. The respondent have been paying the amount in instalments. That the applicant met with an accident and hence imputation of his 5th toe of right leg had to be done. He is currently fit and fine and the said injury did not result in any loss of his earning capacity. The report mentions about imputation of 5th toe (often referred as pinky toe) and crush injury right foot with lisfranc dislocation. That the answering respondent no. 1 paid a sum of Rs. 60,000/- to the wife of applicant right after the accident. This gesture of answering respondent no. 1 is symbolic of his good faith and his sympathy for the applicant. But the sympathetic gesture of answering respondent should not be used against him to extort more money from him. That the Employee's Compensation Act, 1923 is a social beneficial legislation enacted with the aim to provide compensation to the vulnerable employees. But the same should not be allowed to be used against the employers. Allowing these frivolous, baseless and concocted applications would promote the mentality of remaining idle. These provisions are not meant to create an army of idle people waiting for a dole to be awarded by employers. It is further submitted by the answering respondent that the respondents hired a contractor named Suraj and the applicant was working under that contractor. That the applicant has mentioned about Suraj*



in the FIR dated 24/03/2017. That the respondents are entitled to be indemnified for the compensation from the contractor (Suraj) as per sec 12(2) of the Employee's Compensation Act, 1923. In the last the answering respondent denied his liability towards payment of penalty and prayed that the present application be dismissed with heavy cost.

4. The matter was fixed for final arguments. Oral arguments adduced by the parties were heard in detail and the matter was reserved for order.
5. I have gone through the pleading of the parties and found that respondent has not submitted any justified ground for not paying the compensation to the claimant as per provision of the act. As such submission of respondent is not considerable and accordingly this is a fit case to impose 50% penalty on awarded amount on the respondent. In view of this respondent is liable to pay 50% penalty of awarded amount to the claimant.
6. Accordingly I hold that respondent No 1 is responsible for paying penalty 50% of the awarded amount of Rs. 2,33,767/-. Accordingly **I direct respondent no 1 Sh. Nakul Gupta to deposit 50% penalty of awarded amount which comes Rs. 1,16,883/-** by way of demand draft in favour of Commissioner Employees Compensation within 30 days from receipt of this order.
7. Given under my hand and seal of this Authority on this 23rd day of February, 2024.

(S.C. Yadav)
Commissioner

Employee's Compensation

