

**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.ECD/136/NW/19/291.

Dated: 29/08/2023.

IN THE MATTER OF:

**Smt. Hemlata**

C-9/60, Sultanpuri,  
Delhi - 110086

....Applicant/Claimant

V/s

**Sh. Charanjeet Singh S/o Sh. Tirkha Ram**

H.No. 1322, Gali No. 4,  
Jain Nagar, Begumpur, Delhi - 110081

.....Respondent

ORDER

1. By this order, I will dispose of claim application filed by the claimant on 11/12/2019 for seeking death compensation under the Employees Compensation Act, 1923.
2. Claimant in the claim application submitted that on 28/10/2018 at 04:00 PM the respondent Sh. Charanjeet Singh S/o Sh. Tirkha Ram r/o H. No. 1322, Gali No. 4, Jain Nagar, Begumpur, Delhi – 110081 from the divider road of Rohini sector 20 and 21 took Sh. Prem @ Sachin (deceased labour) along with other labourers for the work of shifting goods from Jain Nagar Gali No. 2 to Jain Nagar Gali No. 4. It is further submitted by the claimant that her deceased husband Sh. Prem @ Sachin along with other labourers reached the house of the respondent i.e. Jain Nagar Gali No. 2 and after reaching there they started loading the goods from the house in truck bearing No. DL-1Y-2288 and after that reached to the new house of the respondent at 1322, Gali No. 4, Jain Nagar, Begumpur, Delhi – 110081. After reaching the new house of the respondent, the respondent directed the labourers to shift the goods on the 1<sup>st</sup> and 2<sup>nd</sup> floor of the house. It is further submitted by the claimant that there were electric wires on the front of the house of the respondent and regarding this her deceased husband Sh. Prem @ Sachin along with other labours told the respondent that there are electric wires in front of his house and they can get electrocuted and the labours also asked the respondent to provide them some gloves. It is further submitted that on this issue the respondent replied to the labours that if they will not complete the work they will not get their payment. It is further submitted by the claimant that her



deceased husband along with other labours started shifting the goods. One of the labour Sh. Bhoop Singh was pulling the load of goods with the help of a rope to the 2<sup>nd</sup> floor and the deceased labour Sh. Prem @ Sachin was standing on the balcony of 1<sup>st</sup> floor and was giving the support from there. When the labourers were pulling the iron Trunk (Sandook), it got stuck on the railing grill of the 1<sup>st</sup> floor, and it was then when the deceased Sh. Prem @ Sachin was trying to pull the iron trunk (Sandook) by holding its latch (Kundi) and the iron trunk (Sandook) got in contact with the electric wires and the deceased Sh. Prem @ Sachin fell in the balcony. It is further submitted that other labourers along with Sh. Rakesh the son of the respondent Sh. Charanjeet Singh on his motorcycle took the deceased to the Cygnus Hospital, Rama Vihar, Delhi and the doctors declared the husband of the claimant dead. It is further submitted by the claimant that co-labour Sh. Deepak @ Vishal S/o Sh. Laxmi Narayan lodged an FIR No. 0573 dated 29/10/2018 u/s 304A against the respondent. In the last petitioner prayed that since accident of deceased employee occurred out of and in the course of employment with respondent resulting in death hence respondent is liable to pay compensation amounting Rs. 25,00,000/- along with 18% interest and penalty to the extent of 50% to the petitioner/claimant being the legal heirs of the deceased/ employee.

3. Summon was sent to the respondent with direction to appear before this Authority to file reply in the matter.
4. Respondent filed its reply and submitted that the contents of the application filed by the claimant/petitioner are concocted. The answering respondent further submitted that the claimant/petitioner has not come to this Hon'ble Forum with clean hands and has concealed the true and correct material facts from the Hon'ble forum and hence prayed that the petition is liable to be rightly dismissed. It is further submitted by the respondent that there was no employee - employer relationship. It is further submitted by the respondent that for the purpose of shifting his goods from Jain Nagar, Gali No. 2 to H.No. 1322, Gali No. 4, Jain Nagar, Begumpur, Delhi – 110081 and for this work on 27/10/2018 Saturday Sh. Rakesh Kumar S/o Sh. Charanjeet (respondent) along with his friend Sh. Praveen went to Jai Shiv Dharam Kanta, Main Kanjhawla Road, Puth Kalan, Near Aggarwal Sweets, Delhi and met Sh. Jaidev S/o Sh. Brij Bhushan who took the work of shifting for the amount Rs. 3500/- and said that he will bring 03 more persons with him for performing the shifting work on 28/10/2018. It is further submitted by the respondent that on 28/10/2018 after giving repeated phone calls Sh. Jaidev along with Sh. Deepak @ Vishal, Bhupram @ Viru and Sh. Prem @ Sachin reached his place in truck No. DL-1LY-2288 at 06:00 PM. It is further submitted by the respondent that when the said person started the shifting work, he has asked them all to not to shift the goods from the front of the house as there are electric wires at the front of the house, and further asked them to use the stairs, net or to use the plot on the left side of the building, on this Sh. Jaidev said *"that to remain silent and let them do their work their way and if they will do the work as per the instruction of the management it will take 5 hours to finish the work that can be done in 30 Minutes and further said that this is their daily routine work and they are having an experience*



of 10 years.” In the last the answering respondent further denied rest of the contents in toto and in the last prayed that the application may kindly be dismissed.

5. Claimant filed rejoinder by which he denied contents of reply filed by respondent and reiterated the contents of his claim application.
6. On 12/11/2021 following issues were framed for adjudication:
  1. Whether employee-employer relationship existed between the deceased and respondent?
  2. Whether accident resulting into death of deceased is caused out of during the course of employment and if so to what amount of death compensation the dependants are entitled to?
  3. Relief, if any?
7. Matter was fixed for the evidence of the claimant. Claimant filed her statement by way of affidavit Ex. WW1/A (wife of deceased Lt. Sh. Prem @ Sachin). The contents of affidavit are corroborative to those claim petition. The claimant also filed documents Ex. And Marked WW1/1 to WW1/18 i.e. Copy of Aadhar Card of Smt. Hemlata, copy of Aadhar card of Sanyam, copy of Aadhar card of Kusum, copy of death certificate of deceased Sachin, copy of FIR No. 0573/18, PS Begumpur, Copy of Aadhar Card of deceased Sachin, Copy of demand Letter, Speed Post receipt. Her statement was also recorded and was also cross examined by counsel of respondent on 26/08/2022.
8. For respondent Sh. Sh. Charanjeet Singh S/o Sh. Tirkha Ram –filed his evidence by way of affidavit. The contents of affidavits were corroborative to those reply. His statement was also recorded and was also cross examined by counsel of claimant on 30/01/2023.

Further respondent examined another 03 witnesses i.e. Sh. Ajay Kumar (Son of the respondent Sh. Charanjeet Singh) by way of affidavit Ex. MW1/A, Sh. Rakesh Kumar (Son of the respondent Sh. Charanjeet Singh) by way of affidavit Ex. MW2/A and Sh. Gajraj Singh Kashyap S/o Lt. Tejpal Singh Kashyap (Relative) by way of affidavit Ex. MW3/A and further tendered their evidence and were also cross examined by counsel of respondent on 08/06/2023.
9. The matter was fixed for arguments. Written arguments were filed by both the parties.
10. On the basis of pleadings of the parties, documents available on record and submission adduced by both the parties, I am giving my findings on the issues framed in the matter as under:

### **Issue No.1 & 2**

11. The case of claimant is this that on 28/10/2018 at 04:00 PM the respondent Sh. Charanjeet Singh S/o Sh. Tirkha Ram r/o H. No. 1322, Gali No. 4, Jain Nagar, Begumpur, Delhi – 110081 from the divider road of Rohini sector 20 and 21 took Sh. Prem @ Sachin (deceased labour) along with other labourers for the work of shifting goods from Jain Nagar Gali No. 2 to Jain Nagar Gali No. 4. It is further submitted by the claimant that her deceased husband Sh. Prem @ Sachin



along with other labourers reached the house of the respondent i.e. Jain Nagar Gali No. 2 and after reaching there they started loading the goods from the house in truck bearing No. DL-1Y-2288 and after that reached to the new house of the respondent at 1322, Gali No. 4, Jain Nagar, Begumpur, Delhi – 110081. After reaching the new house of the respondent, the respondent directed the labourers to shift the goods on the 1<sup>st</sup> and 2<sup>nd</sup> floor of the house. During the process of shifting of the goods from Truck to house, there was electric wire near the house and during this process the deceased Sh. Prem @ Sachin got electrocuted as the open electricity wire was passing from front of the house, thereafter immediately he shifted to the Cygnus Hospital, Rama Vihar, Delhi for treatment where doctor declared brought dead. The accident fact is not denied by the respondents resulting thereby deceased died. Further it is also a fact that deceased was hired for executing the work as per will of the respondent from the Labour chowk.

“As per section 12 – Contracting

- (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purposes of his trade or business contracts with any other person (herein after this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any [employee] employed in the execution of the work any compensation which he would have been liable to pay if that [employee] had been immediately employed by him; and where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the [employee] under the employer by whom he is immediately employed.
- (2) Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, or any other person from whom the [employee] could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation nor to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the [employee] could have recovered compensation]and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.
- (3) Nothing in this section shall be construed as preventing a [employee] from recovering compensation from the contractor instead of the principal.
- (4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.”

As per this section respondent had engaged the deceased for his work as per his will for that day on the decided remunerations thereafter it would be considered that for that day as engaged by the respondent on remuneration basis as decided between the deceased employee Sh. Prem @ Sachin as a employee. After engaging the employee in these circumstances provision of section 12 applies accordingly. And the respondent will be deemed to be considered as the employer in case of employment of the engaged workers for the particular hours or for the day. In view of this discussion i hold that between respondent and deceased Sh. Prem @ Sachin was existed



employee employer relationship on the day of accident resulting into death and since cause of death of deceased employee Sh. Prem @ Sachin is also not disputed, which occurred out of and on the course of his employment as such issue no. 1 & 2 are decided in favour of claimant and against the respondent.

### Issue No. 3

12. In view of above discussion made. I hold that claimant is entitled to receive death compensation under the EC Act 1923 from respondent. For considering the case of claimant for compensation I am taking age of deceased as 29 years as per age mentioned in Adhar Card No. 664975775903 and relevant factor as per age 209.92 and 50% of Rs. 8000/- as restricted under the Act.

**Accordingly compensation is calculated as under:**

50% of Rs. 8000/-	:	4000/-
Relevant factor	:	209.92
4000 * 209.92	:	Rs. 8,39,680/-

In view of this calculation claimant is entitled to receive **Rs. 8,39,680/-** as compensation from the respondent. The applicant/claimant is also entitled to interest as per Section 4A of the 'Act' @ 12% per annum from 30 days after the accident. Keeping in view the facts and circumstances, I impose a penalty of 25% of the principal amount on the respondent.

13. In view of above discussion, I direct respondent to **deposit Rs. 8,39,680/- as compensation along with 12% interest w.e.f. 27/11/2018 till its realization** as per section 12(1) of the EC Act, 1923 and the respondent is also directed to **deposit 25% penalty of awarded amount i.e. Rs. 2,09,920/- 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.

14. Given under my hand and seal of this Authority on this 29<sup>th</sup> day of August, 2023.

(S.C. Yadav)  
Commissioner  
Employee's Compensation Act, 1923

