

**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. CEC/37/D/CD/2022/ 126.

Dated: 20/09/2024.

IN THE MATTER OF:

1. Smt. Rekha Devi (Wife of Deceased)
  2. Smt. Urmila Devi (Mother of deceased)
  3. Sh. Surender Sah (Father of deceased)
- R/o Village – Gangauli, P.S. – Masrakh,  
District - Saran, Chapra, Bihar-841417

**ALSO THROUGH:**

**Dilli Samajwadi Industrial Workers Union (Regd.)**  
L-48, Prem Nagar-II, Kirari, Delhi-110086

.....Applicants/Claimants

**Versus**

**M/s Plastic Injection Molding Machine  
Through Sh. Virender S/o Sh. Har Narayan**  
Factory No. 308/8, Manish Gali,  
Daya Basti, Delhi-110035

**ALSO AT:**

**Sh. Virender S/o Sh. Har Narayan**  
R/o. D-50, Harsh Dev Park, Phase-II,  
Budh Vihar, Delhi-110086

.....Respondent

**ORDER**

1. Vide this order, I will dispose of claim application filed on 07.12.2022 before this Authority under section 22 of the Employee's Compensation Act, 1923 for seeking death compensation.



2. In the claim application claimant no. 1 i.e. Rekha Devi stated that her deceased husband Sh. Raju Ranjan Sah S/o Sh. Surender Sah was working as a Machine Man for last 08 years in the factory of respondent on last drawn wages of Rs. 20,019/- per month. Claimant further stated that deceased did his work with great hard work, honesty as a result of which there was no allegation of any kind against the deceased employee during his service period. It is further stated that the legal facilities like appointment letter, annual and casual leave, overtime money for 12 hours work, ESI, PF etc. were not being provided to the deceased employee by the respondent. It is further stated that the machine on which the deceased employee was working was not being serviced from time to time by the respondent and the deceased employee had requested the respondent to get the machine serviced so that no accident occurs and no safety equipment was provided by the respondent and the respondent said that the work is urgent and the machine will be serviced when they get free time. It is further stated that respondent forced the deceased employee to work on the faulty machine on 15.09.2022, suddenly the machine gave an electric shock and the deceased employee got stuck to the machine and a terrible accident occurred and the deceased employee fell unconscious and another co-worker namely Sh. Sanjay Singh Sah switched off the electricity and removed the deceased employee from there and informed the respondent through telephonically about the incident. Thereafter, the police was informed and the police came and crime team was also called on the spot who inspected the spot and then the dead body of deceased employee Sh. Raju Ranjan Sah was sent to the mortuary Sabzi Mandi, Delhi for post mortem, from where the post mortem report was given on 16.09.2022 in which also the death of the deceased employee was shown to be due to electrocution. Claimant further stated that the respondent said to claimant at that time do not get into too much trouble with the police etc. we will pay whatever compensation is due to the deceased employee and whatever amount is due for service benefits. Therefore, the claimant did not proceed further at that time. Because the death of deceased employee happened due to the negligence of the respondent i.e. not getting the machine serviced and not providing the safety equipment to the deceased employee. It is further stated that the deceased employee left behind his wife Smt. Rekha Devi aged 20 years, daughter Rani Kumari aged 03 years, son Ashish Kumar aged 4-5 months, mother Smt. Urmila Devi and father Sh. Surender Sah. It is further stated that the applicants/claimants send a demand notice to the respondent by speed post dated 23.11.2022 and demanded the amount of death compensation etc. to which the respondent did not give any reply. In the last petitioner prayed that since accident of deceased employee occurred out of and in the course of employment with respondent resulting into death hence respondent is liable to pay compensation amounting Rs. 24,98,131/- alongwith interest and penalty to the extent of 50 % and Rs. 50,000/- of cremation to the petitioner/claimant being the legal heirs of the deceased employee. Alongwith claim application claimant filed copy of FIR bearing no. 0595 dated 16.09.2022 registered with P.S. Sarai Rohilla, Delhi, copy of post mortem report bearing no. 1322/2022 dated 16.09.2022 issued from Aruna Asaf Ali Govt. Hospital, Sabzi Mandi Mortuary, GNCTD, copy of receipt for removal of the dead body, copy of death certificate of the deceased employee, copy of





aadhaar card of deceased employee, copy of e-shram card of deceased employee, copy of certificate regarding cremation issued by Gram Panchayat Raj Gangauli-15, District-Saran, Bihar, copy of aadhar card of Smt. Rekha Devi (wife of deceased), copy of aadhaar card of Rani Kumari (daughter of deceased), copy of aadhaar card of Ashish Kumar (son of deceased), copy of demand letter dated 23.11.2022 sent to the respondent and copy of speed post receipts of both the addresses of the demand letter sent to the respondent.

3. Summon was sent to the respondent with direction to appear before this Authority and to file reply/defense in the matter. Accordingly respondent appeared and filed reply stating therein that there is no firm namely Plastic Injection Molding Machine run by the respondent, Sh. Virender is not running any industry or business in the name of Plastic Injection Molding Machine or any other name at any place much less at 308/8, Manish Gali, Daya Basti, Delhi-110035. Respondent further stated that the claimants have wrongly dragged the respondent in the present claim as such the claim of the claimants is liable to be rejected. It is further stated that the claimants have not approached this Authority with clean hands and have suppressed the true and correct facts from this Authority. It is also stated that no relationship of employer and employee ever existed between the respondent and the deceased Sh. Raju Ranjan Sah. Respondent further stated that there is no cause of action in favor of the claimants and against the respondent and the claimants have filed the present claim only with the motive to extort money from the respondent by misusing the liberty given under the law therefore the claim of claimants is liable to be dismissed.
4. Claimant filed rejoinder by which she denied all the contents of reply and reiterated contents of her claim.
5. On 18.09.2023 on the basis of pleadings of the parties and documents available on record following issues were framed for adjudication:-
  - (i) Whether the employee employer relationship exists or not ?
  - (ii) If the accident occurred during the course of employment. If so, what relief?
  - (iii) Any other relief?
6. Matter was fixed for the evidence of the parties. Claimant filed her evidence by way of affidavit exhibit CW1/A. The contents of the affidavit are corroborative those claim petition. Her statement was also recorded on 15.07.2024 and was also cross examine by Counsel for Respondent.
7. Matter was fixed on 31.07.2024 for evidence of the respondent. Counsel for respondent submitted on 31.07.2024 that respondent does not want to lead any evidence in the matter since there was not employee employer relationship with the deceased employee on the day of accident. The onus lies upon the claimant to prove her case beyond doubts. Hence evidence of



respondent was closed. On the other side AR of claimant orally argued that FIR was lodged against the respondent and in the year 2021 also an FIR was lodged against the respondent as such statement of the respondent is wrong that there was no any establishment of the respondent.

8. On the basis of pleadings of the parties and documents available on record, I giving my findings on the issues framed in the matter as under:

**Issue No. 1**

The case of claimant is this that her deceased husband Sh. Raju Ranjan Sah was working with respondent factory since last 08 years as a machine man on last drawn wages Rs. 20,019/- per month. Respondent was not providing any legal facilities to claimant such as appointment letter, benefit of ESIC and PF etc. On 15.09.2022 when deceased was working on machine suddenly the machine gave an electric shock and the deceased employee got stuck to the machine and a terrible accident occurred and the deceased employee fell unconscious and another co-worker namely Sh. Sanjay Singh Sah switched off the electricity and removed the deceased employee from there and informed the respondent through telephonically about the incident. An FIR was lodged in the matter vide no. 0595 dated 16.09.2022 with P.S. Sarai Rohilla, Delhi and Post Mortem was also done vide PMR No. 1322/2022 dated 16.09.2022. Since compensation under the Act was not paid hence claimant filed this claim to prove her case claimant examined herself Ex. CW1/A. On the other side respondent did not lead any evidence and taken ground that onus lies upon the claimant to prove her case by way of evidence on merit since there was no employee employer relationship with the deceased and the case has filed on the false ground only to extort money from the respondent.

I have considered pleadings, evidence available on records and found that claimant did not filed any documentary evidence to establish employee employer relationship with deceased Sh. Raju Ranjan Sah and the respondent. Even claimant did not examine any co-employee to prove her case. Claimant did also not examine Sh. Sanjay Singh Sah S/o Sh. Kapil Muni Sah who had informed regarding accident to the police and had given information about the deceased employee how he electrocution and died due to that. Further post mortem report also did not disclose cause of death as opinioned by the doctors. Even claimant did not examine the I.O. of P.S. – Sarai Rohilla, Delhi who had investigated the accident matter and thereafter lodge FIR. It was become very important on the side of claimant to prove her case by way of examining witness of the case when the respondent has denied employee employer relationship with the deceased. Merely on the statement of the claimant without any supporting documents this Authority can not draw any conclusion regarding existence of the relationship between deceased and the respondent. Further in these circumstances when respondent denied employee employer relationship with deceased then it was become more important to examine all the related witnesses to prove her case. In these circumstances





claimant failed to prove her case against the respondent as such issue no. 1 is decided against the claimant.

**Issue No. 2 & 3**

In view of above discussion made in issue no. 1 no further answer is required in respect of issue no. 2 and 3.

9. Given under my hand and seal of this Authority on this 20<sup>th</sup> day of September, 2024.

(S.C. Yadav)  
Commissioner

Employee's Compensation Act, 1923

