



**OFFICE OF THE COMMISSIONER EMPLOYEE'S COMPENSATION  
(UNDER EMPLOYEES' COMPENSATION ACT, 1923)  
DISTRICT WEST, LABOUR WELFARE CENTRE,  
F-BLOCK, KARAMPURA, NEW DELHI-110015**

No. EC/D/WD/56/2023/ 252- 53

Dated: 7/2/25

**In the matter of:-**

Smt. Sandhya Devi W/o Late Sh. Anil Sah  
(wife of deceased)  
R/o Y-516/9, Adarsh Enclave, Prem Nagar-2,  
Kirari Suleman Nagar, Nithari, Delhi-110086.

**Represented by: -**

Sh. Madan Lal Suryavanshi, Gen. Secy.,  
Delhi Dukan Evam Sansthan Kamgar Union,  
277, Pratapkhand, Vishwakarma Nagar,  
Delhi-110095. : ....Petitioner/Claimant

**VERSUS**

Sh. Sunil Kumar S/o Sh. Krishan Lal,  
(Mob. No. 8368237970),  
R/o H. No. 134A, Ext 3, Nangloi,  
Delhi-110041.

**Represented by: -**

Sh. Anil Kumar Sharma, Advocate,  
(Mob. No. 9953686474),  
Chamber No. 645C, Lawyers Chamber Block,  
Saket Court, Delhi. : ....Respondent

**ORDER**

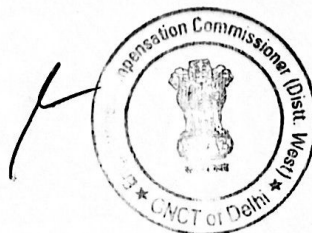
1. By this order, I shall dispose of the claim application dated 16.11.2023 filed by Smt. Sandhya Devi W/o Late Sh. Anil Sah under the provisions of the Employees' Compensation Act, 1923 (here in after referred to as an Act) for claiming compensation on account of death of Sh. Anil Sah stated to have been occurred in the course out of his employment with Respondents on 11.08.2022.



2. Initially the claim was filed by the claimant against two Respondents namely Sh. Sunil Kumar S/o Sh. Krishan Lal, R/o H. No. 134A, Ext 3, Nangloi, Delhi-110041 (Principal Employer – Respondent No. 1) and Sh. Raju S/o Sh. Nagender, H. No. 134A, Ext 3, Nangloi, Delhi-110041 (Contractor – Respondent No. 2) inter-alia stating therein that the Respondent No. 1 had given the contract to Respondent No. 2 for dismantling of his house and the deceased Sh. Anil Sah was employed as Beldar with Respondent No. 1 through Respondent No. 2 on daily wage of ₹500/-. The Respondents had not provided any safety equipments to the workers and even did not accede to their request for providing the same. They forced them to work without safety equipments and to complete the work in haste. That on 11.08.2022 at about 4:30 p.m., while the deceased was dismantling the roof, he suddenly fell down and its debris fell upon him. That the deceased became unconscious and he was taken to Sonia Hospital by the worker Sh. Ravi and others, where he was declared as brought dead. The claimant has claimed that the deceased had died due to accident in the course out of his employment, hence she alongwith other dependants is entitled for due compensation as per the provisions of the Act. The claimant has stated that the deceased has left behind him the following dependants: -

1. Sandhya Devi (wife of deceased) – Age 46 year
2. Neetu (daughter of deceased) – Age 18 year
3. Satya Prakash Sah (son of deceased) – Age 17 year
4. Shanti Kumari (daughter of deceased) – Age 14 year

That the deceased was drawing daily wage of ₹500/- and was aged about 45 years at the time of his accident. The claimant has further stated an FIR bearing No. 0661/2022 dated 11.08.2022 has been lodged by PS Nangloi, Outer District Delhi regarding the incident. She sent a demand notice dated 09.11.2023 to the Respondents even then Respondents did not pay any heed to it. In the end, the claimant has prayed to direct the Respondents to pay her ₹12,70,800/- as due compensation alongwith interest



from the date of the death of deceased till realization and penalty to the extent of 50% of the principal amount of compensation as the due amount of compensation has not been paid by the Respondents to her within stipulated time as prescribed under the Act.

3. The summons were sent to the Respondents with the direction to appear and to file their written statement/ documents, if any in their defense. The summon sent to Respondent No. 2 remained unserved. The claimant filed an application dated 27.03.2024 for deletion of Respondent No. 2 as she was not aware about the address of Respondent No. 2 and further stated that she wish to pursue her claim against Respondent No. 1 only. Reply to the said application was filed by Respondent No. 1. The claimant argued that the Respondent No. 1 is the owner of the building/premise and she wish to prosecute her claim against the Respondent No. 1 only. Accordingly Respondent No. 2 was deleted from the array of parties.
4. Respondent No. 1 filed written statement stating therein that there existed no employer – employee relationship between him and the deceased as the deceased was never employed with him. He further stated that he had given the contract to Respondent No. 2 and if any relationship of employer – employee existed that was between Respondent No. 2 and the deceased. He further stated that the FIR has been got registered against him in connivance with Respondent No. 2. He further denied of his liability to pay any compensation or the interest or the penalty. However, he admitted that the deceased was got admitted in the hospital on humanitarian grounds.
5. Claimant filed rejoinder refuting to the contents of written statement filed by the Respondent and reiterated the contents of her claim application.
6. The claimant filed an application dated 22.04.2024 for summoning of records i.e. registered agreement between the Respondents, day book/in and out register from 01.08.2020 to 30.11.2020, details of workers working on the site, wage register/statement etc. from the Respondent. Respondent filed reply to the said







application reiterating therein that there existed no employer – employee relationship between him and the deceased further the agreement between him and the Contractor was verbal only. He further stated that it was the first day only when the Contractor started the work, hence no transaction was made between them.

7. An application dated 24.04.2024 was filed by the claimant seeking direction to PS Nangloi to submit accident report regarding the said FIR bearing No. 0661/2022. In response, a report dated 31.07.2024 was submitted by SI Pankaj Yadav inter-alia stating therein “.....on dated 11.08.2022 a PCR call was received in PS Nangloi Vide GD No. 91A regarding death of a person due to fall from roof during working and the same was marked to SI Dinesh for further necessary. Then on the statement of complainant Sh. Ravi S/o Sh. Nathuram, R/o A-14, Ambika Enclave, Nihal Vihar, Delhi the above said case was registered and the investigation of the case was taken up by IO/SI Dinesh. The complainant in his statement alleged that he used to go at Labour Chowk, Near Lokesh Cinema, Nangloi, Delhi and there he met with Anil Sha, Ram Kewal, Riyasat and Pawan and they used to go together as labour to work on any site. Then on 11.08.2022, Thekedar Raju offered work of demolishing a old house and then they all i.e. Anil Sha, Ram Kewal, Riyasat, Pawan and he himself went to the house i.e. H. No. 134A, Ext. 3, Nangloi, Delhi and they met there Thekedar Raju and the house owner Sunil Kumar S/o Krishan Lal present there. They all after examining the house asked Thekedar Raju and Owner Sunil Kumar to provide safety equipment like helmet, roop and other equipment for their safety as the house was a old storey. But Thekedar Raju and Owner Sunil Kumar refused to provide any safety equipment by saying that this is only one storey building and if anything happen, they both will take care of that. Then all of them started to work and while working on the roof one of them i.e. Anil Sha S/o Bhola Shankar Shah fell down and debris of roof fell on him. Then he was taken to Soniya Hospital, Nangloi, Delhi in unconscious state where the doctor declared him as brought dead. During the course of the investigation, crime team inspection of the incident place got conducted, statement of the witnesses got recorded and one of the accused





person Sunil Kumar S/o Krishan Lal R/o H. No. 134, Ext. 3, Nangloi, Delhi got arrested and released on police as the offence was bailable in nature. During the further course of investigation efforts were made to trace Thekedar Raju S/o Nagender @ Nageshwar. His mobile no. was sent for CDR and same was analyzed but no clue could be found so far”.

8. On the basis of pleadings, following issues were framed: -

- (i) Whether employee – employer relationship existed between the deceased Sh. Anil Sah and Respondent? and if so?
- (ii) Whether the accident resulting into death of deceased has occurred out of and in the course of employment with Respondent? and if so to what amount of compensation on account of death of deceased, the claimants are entitled to?
- (iii) Any other relief?
- (iv) Whether the Respondent is liable for penalty under section 4A of the Act and if so to what extent and what amount?

9. The claimant Smt. Sandhya Devi examined herself as WW-1 who filed her evidence by way of affidavit Ex.WW1/A duly attested by Oath Commissioner on 30.05.2024 Ex.WW1/A, which was tendered by her on 22.07.2024. She relied upon the following documents: -

Ex.WW1/1	Copy of Aadhar Card of Smt. Sandhya Devi
Ex.WW1/2	Copy of Aadhar Card of deceased Sh. Anil Sha
Ex.WW1/3	Copy of Aadhar Card of Ms. Nitu Kumari
Ex.WW1/4	Copy of Aadhar Card of Sh. Satya Prakash Shah
Ex.WW1/5	Copy of Aadhar Card of Ms. Shanti Kumari
Mark WW1/6	Copy of ration card (colly 02 pages)
Mark WW1/7	Copy of FIR No. 0661 dated 11.08.2022 (colly 03 pages)
Mark WW1/8	Cop of Post mortem report
Ex.WW1/9	Copy of death certificate
Ex.WW1/10	Copy of demand notice dated 07.11.2023
Ex.WW1/11	Copy of postal receipts





She was cross examined by AR of Respondent and in cross examination, she stated as under: -

*"It is correct that I am not an eye witness to the incident. I remember only the day i.e. 11<sup>th</sup> and year i.e. 2022 but I do not remember the month of the incident. It is correct that my husband used to tell me that I am going to my job but he did not use to tell me where he is going. One of the colleague of my husband namely Sh. Ballu told me that my husband had gone to the place of the respondent. It is wrong to suggest that my husband was not employed with the respondent. I do not know Raju who was a contractor. It is wrong to suggest that I have filed the present case in connivance with Raju. It is wrong to suggest that I know Raju who is a contractor and today deliberately I am not disclosing his name. It is wrong to suggest that Sh. Raju used to call my deceased husband for job. It is wrong to suggest that on the day of incident my husband was not working with the respondent at the spot. It is wrong to suggest that I deliberately deleted the name of respondent no. 2 from the claim petition as I have filed the present claim petition in connivance with Raju. It is wrong to suggest that my husband was not in continuous service of respondent. It is wrong to suggest that my husband was not earning Rs. 500/- per day. It is wrong to suggest that contents of para no.3 of my evidentiary affidavit are false. It is wrong to suggest that I have got registered the FIR against respondent on the instance of Raju and other labours. It is wrong to suggest that on the day of incident my husband had not gone to his job however in the evening he went to meet Raju to claim his past arrears. It is wrong to suggest that I am not entitled for the claim as prayed for. It is wrong to suggest that the incident took place due to the negligence of the deceased. At present I am working as a labour in a Shoe factory and earning Rs. 5000/- pm. It is wrong to suggest that I have filed a false claim against the respondent. It is wrong to suggest that I am deposing falsely."*

10. The Respondent Sh. Sunil Kumar examined himself as witness RW-1 who filed his affidavit duly attested by Oath Commissioner on 25.11.2024 exhibited as Ex.RW1/A.





The evidence was tendered by him on 06.01.2025. He was cross examined by AR of Claimant and in cross examination, he stated as under: -

*"I do not know the contents of my affidavit. It is correct that an FIR bearing no. 661/2022, PS Nangloi dated 11.08.2022 was registered against me. The deceased was in my residence i.e. House no. 134 A, Ext. No. 3, Nangloi, Delhi and I took him for there to the hospital. I have not objected or file any complaint against the said FIR to any senior police official or any other forum. I had not entered into any contract with Sh. Raju for carrying out the work at my residence. It is wrong to suggest that I had not entered into any contract with Raju therefore I have not placed on record any contract. I cannot tell how many employees/workers were employed there at the site on the date of accident. I was walking in the gali outside my residence when the accident had occurred. It is wrong to suggest that I am deposing falsely."*

11. Both the parties filed their written arguments and adduced oral as well. Thereafter, the proceedings were concluded for orders on 31.01.2025.
12. I have gone through the pleadings, evidence led by parties, the arguments and material available on records and my findings in the case are as under: -

**Issue No. (i), (ii) & (iii):** - The claimant has claimed that the Respondent had entered into a contract with Contractor Sh. Raju for dismantling of his house. That the deceased was employed with the Respondent through the said Contractor as Beldar on the date of accident i.e. on 11.08.2022. Respondent had not provided any safety equipments to the workers and even did not accede to their request for provide the same and further forced them to work without safety equipments and to complete the work in haste. That at about 4:30 p.m., while the deceased was dismantling the roof, he suddenly fell down and the debris fell upon him. That the deceased became unconscious and he was taken to Sonia Hospital by the worker Sh. Ravi and others, where he was declared as brought dead. The claimant has claimed that the deceased had died due to accident in the course







out of his employment, hence she alongwith other dependants is entitled for due compensation as per the provisions of the Act.

On the other hand, the Respondent has not disputed the factum of accident however has disputed the factum of employment stating that he had given the contract for demolition of his building to the Contractor and hence there was no relationship of employer – employee between him and the deceased. Though the Respondent could not place any contract with the Contractor but the same has not even been disputed by the claimant. Notice to the said Contractor remained unserved and on request of claimant he was deleted from the array of Respondent. The documents as relied upon by the claimant i.e. Mark WW1/7 i.e. copy of FIR No. 0661 dated 11.08.2022, Mark WW1/8 i.e. copy of post mortem report, Ex.WW1/9 i.e. copy of death certificate, Ex.WW1/10 i.e. copy of demand notice dated 07.11.2023, Ex.WW1/11 i.e. copy of postal receipts and the report submitted by the IO proves the claim of claimant.

There is no denial of the factum of accident of the deceased in the course out of his employment or that the accident of the claimant had not occurred while on his duty at the site/premise of the Respondent. The main defence of Respondent is that he had awarded the said contract to the contractor Sh. Raju who is liable to pay the compensation, if any due to be payable. However, this argument of the Respondent would be of no help in view of judgment of Hon'ble High Court of Delhi in case titled "Krishan V/s Jasoda Devi", 2017 SCC OnLine Del 11137 as relied upon by the claimant. Relevant portion of the said judgment is reproduced here under: -

"43. Summary of Principles

43.1. The Employees' Compensation Act, 1923 is a piece of social beneficial legislation and its provisions have to be interpreted in a manner so as not to deprive the employees of the benefit of the legislation.

43.2. The object for enacting the Employee's Compensation Act even as early as 1923 was to ameliorate the hardship of economically poor employees who were exposed to





risks in work, or occupational hazards by providing a cheaper and quicker machinery for compensating them with pecuniary benefits.

43.3. Section 12 safeguards the right to compensation when the employer delegates the work to another person. Section 12 is intended to secure to an employee the right to claim compensation not only against his immediate employer who, in the Act, is referred to as a contractor, but also against the person who had employed such contractor to execute the work. The Act refers to him as the principal.

43.4. The main object of enacting Section 12 of the Act is to secure compensation to the employees who have been engaged by the principal employer through the contractor for the work which the principal employer is supposed to carry out by his own employees. If a person substitutes another for himself to do his work, he ought not to escape the liability which would have been imposed upon him, if he had done it himself.

43.5. The intention of the Legislature in enacting Section 12 provision appears to be that the injured employee or the dependent of a deceased employee who has been awarded compensation by the Commissioner, should not be put to any difficulty in realising such amount of compensation on account of any recalcitrance of the employer or on account of the vicissitudes of his (the employer's) financial position.

43.6. Section 12 of the Act has, in effect, stretched the contours of the word "employer" wider as to include the person contracting with another person for carrying out the work of the former. In such cases, the provision enjoins that the principal shall stand substituted as the employer. This is achieved by the words "where compensation is claimed from the principal, this Act shall apply as if references to the principal were substituted for references to the employer". The principal may have a claim for indemnity from his contractor or delegatee but the victim or his dependents are not to be involved in such disputes.

43.7. Section 12 will apply notwithstanding the agreement or contract entered into between the principal and contractor regarding their liability for payment of compensation under the Act. The agreement or contract between the principal and the contractor shall govern only their inter-se rights and liabilities, and cannot affect the





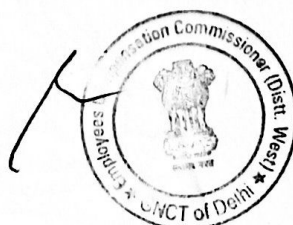
right of the employee or the dependants of the employee, to get the compensation from the principal or from the contractor at their option.

43.8. Section 12 shall apply even in cases of several tiers of employers or petty contractors. It is a matter of common knowledge that contractors in turn employ other petty contractors working under their direction and an employee may be actually employed by one of these aforesaid persons and in such a case, there may be no direct privity of contract between the principal and the employee in the last analysis. The employee has, for all practical purposes to deal with an immediate employer but when it comes to lodging a legal claim for compensation on account of an accident, he is concerned with the principal employer and not the immediate employer qua the employee.

43.9. In case of the multiplicity of immediate and indirect or remote employers/contractors, Section 12 relieves an employee of the difficulty of ascertaining with precision as to who should be deemed to be the actual employer liable for compensation under the Act. The purport of Section 12 is to create a deemed employer-employee relationship between the principal employer and the employee of the immediate employer who is brought in by the principal employer as his contractor.

43.10. Section 12 secures compensation to the employee who cannot fight out his battle for compensation by a speedy process. A person who employs others to advance his own interest is expected to provide a surer basis for payment of the injured employee than the intermediary, who may often turn out to be a man of straw, from whom compensation may not be available. This is the purpose for which the claimant is given the option under section 12(3) of the Act to claim the compensation either from the principal or from the contractor.

43.11. The contractor may not be a man of means or he may be merely a man of straw or it may be that wittingly or unwittingly he may possibly be part of an arrangement conceived by the principal to avoid confrontation directly with the employee engaged in







the execution of the work. In either case, the interests of the employee need to be protected and that is what the provision secures to the employee. The principal can seek indemnification from the contractor if he has been made answerable for the payment of compensation. The right of the principal to be indemnified has thus been incorporated under Section 12(2), who has entrusted the work to the contractor stipulating the right of indemnification under the Act.

43.12. Section 12 of the Act gives protection to the employee in case of an accident and secures compensation from the persons who can pay, so that such employee will not be dependent upon a petty contractor(s) who may themselves not be able to pay compensation on account of their financial inability.

43.13. Section 12 is an enabling provision for the benefit of the employee(s) and enacted with the clear objective that the employee(s) should not be hampered by technicalities or practical difficulties of deciphering the correct employers. A pragmatic method has thus been devised for fixing the liability of the principal employer and thereby affording speedy relief to the employee for payment of compensation on account of the accident, though the principal has been invested with the right of indemnifying himself from the contractor who may have employed the employee and may have been responsible for immediately taking work from him.

Further, as per the judgment dated 20.02.2002 of Hon'ble Karnataka High Court in Misc First Appeal No. 1318 of 2000 in case titled as "Thirthamurthy v/s Smt. Radha", it is not necessary to implead the contractor as Respondent for claiming the compensation. Relevant portion is reproduced as under: - "(B) Workmen's Compensation Act (8 of 1923), S. 12 - Compensation - Necessary party - Death of workman employed in a coffee estate due to falling of tree while work of cutting of trees was being undertaken through contractor - Claim can be proceeded either against employer or against contractor or against both - Non-impleadment of contractor, is not fatal to claim proceedings.





*Under section 12 of the claim can be proceeded either against the principal employer or against the contractor or against both. The only effect in not impleading the contractor is that the claimant cannot seek compensation from a person who has not been impleaded as a party to the claim application but it will not render bad claim application itself. In the instant case it is not in dispute that the accident took place because of the falling of the tree which had been grown in the estate of the respondent owner and in the course of cutting and removing of that tree by a person authorized by the owner. The owner is basically liable in respect of any claim arising out of such incident. In any view of the matter the owner is not exonerated of his liability. If at all he can establish that the accident has taken place due to the negligence of the contractor to whom he has entrusted or sold the timber he can claim reimbursement of the compensation amount which he is liable to make good to the claimant and nothing beyond."*

Hence, it is held that the deceased had died in the course out of his employment with the Respondent and therefore the dependants are entitled for due compensation under the Act, which is calculated as under:-

The claimant has claimed that the deceased was working as Beldar on daily wage of ₹500/-. But no proof to this effect has been placed on record by them. In the given situation, it would be appropriate if minimum wage at the relevant point of time when accident took place be taken as wages of deceased. Minimum wage of unskilled worker at the time of accident i.e. on 11.08.2022 was ₹16,506/- p.m. But as per notification of Central Govt. dated 03.01.2020 vide S.O. 71(E), wage of deceased is being restricted to ₹ 15,000/- p.m. The age of deceased is being taken as 45 years on the date of accident which is supported by Aadhar Card which shows his date of birth as 01.01.1977. The relevant factor therefore corresponding to his age as per schedule IV of the Act is being taken as 169.44. The amount of compensation in this case is calculated as under: -

(i) Relevant factor laid down under schedule IV





of the Act for 45 years of age	:	169.44
(ii) 50% of monthly wage restricted to ₹15,000/- p.m.	:	7,500/-
(iii) Amount of compensation payable to dependants of deceased	:	7500 x 169.44 = 12,70,800/-
(iv) Funeral Expenses	:	5000/-
(v) Total amount	:	12,75,800/-

Therefore, I hold that the claimant is entitled to receive an amount of ₹12,75,800/- as compensation including funeral expenses from Respondent on account of death of deceased, which caused due to accident occurred on 11.08.2022 in the course out of his employment with Respondent.

Further the compensation was payable to the claimant within one month from the date on which the accident had occurred. In this case, accident had occurred on 11.08.2022 and therefore the compensation would have been paid to her by 10.09.2022, but the same has not yet been paid, so in view of the provision laid down under clause (a) of sub-section (3) of section 4A of the Act and the judgment dated 24.01.2022 of Hon'ble Supreme Court in case titled as "Ajaya Kumar Das & Anr. V/s Divisional Manager & Anr." the claimant is also entitled for simple interest on due compensation i.e. ₹12,70,800/- @ 12% per annum w.e.f. the date of accident i.e. 11.08.2022 till the date of it's realization by the Respondent.

**Issue No. (iv): -** On issue of penalty, the Respondent reiterating his written statement has denied of any employer and employee relationship between him and the deceased and has further denied his liability to pay any compensation or the penalty but the same has already been decided against him. The accident had occurred on 11.08.2022 but compensation has not been paid by the Respondent so far. A period of 2 ½ years has elapsed since the date of accident, hence I find it a fit case for imposing penalty and in my opinion end of justice would meet if penalty to the extent of 25% which comes to ₹ 3,17,700/- is imposed and accordingly same is imposed upon the Respondent.







13. In view of above, Respondent is hereby directed to deposit the compensation amount ₹12,70,800/- along with simple interest @ 12% p.a. w.e.f. 11.08.2022 till its realization and funereal expenses of ₹ 5,000/- along with penalty of ₹3,17,700/- with this Authority by way of demand draft /pay order in favour of "Commissioner Employees Compensation-IX" within 30 days from the date of this order failing which proceedings to recover the same shall be initiated as per the provisions of Section 31 of the Act.

Given under my hand and seal of this court on ..... day of Feb 2025.

He



S.K. Gupta

(S.K. Gupta)  
Commissioner Employee's Compensation  
(District West)