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Through Reg./SP



GOVT. OF NCT OF DELHI
BEFORE THE COMMISSIONER EMPLOYEE'S COMPENSATION/
JOINT LABOUR COMMISSIONER
LABOUR DEPARTMENT (SHAHDARA & NORTH EAST DISTRICT)
VISHWAKARMA NAGAR, JHILMIL COLONY, DELHI-110095

NO.CEC-D/NE/12/2022/ 1339-41

Dated: 28/6/23

In the matter of:

Smt. Sangeeta Devi W/o Late Sh. Inderjeet Pandey
Sh. Ashutosh Pandey S/o Late Sh. Inderjeet Pandey
Sh. Aman Pandey S/o Late Sh. Inderjeet Pandey
Ms. Sapna Pandey D/o Late Sh. Inderjeet Pandey
All R/o G-1/24, Street No. 2, Panchva Pusta,
Sonia Vihar, Delhi-110094

.....L.R of Deceased

Versus

Mohd. Ansar Saifi S/o Mohd. Ishaq
F-83, Gali No. 23, Near 33 Foota Road,
New Mustafabad, Delhi - 110094

Also at :
E-29, Prem Gali No. 1,
East Babarpur, Delhi - 110032

.... Respondent

ORDER

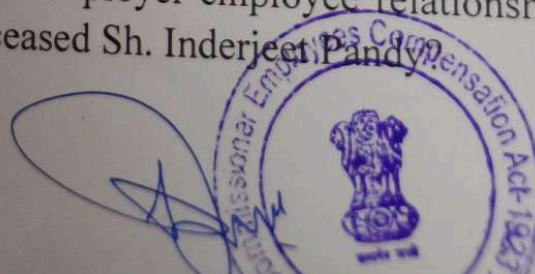
1. Vide this order I shall dispose off the claim application dated 11.07.2022 filed by the claimant under Section 22 of Employees Compensation Act, 1923 (hereinafter referred as an Act).
2. The claimant in her claim has stated that Sh. Inderjeet Pandey S/o Sh. Ram Kuber Pandey was employed by respondent at his factory situated at F-83, Gali No. 23, Near 33 Foota Road, New Mustafabad, Delhi - 110094 and he was drawing Rs. 20,000/- per month. The respondent was running an illegal



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and unauthorized paint factory under the name and style Ansar Factory and was not following the rules and guidelines issued by the state government. The workman/ deceased was working with the management for last 11 years and during that tenure of employment, the workman/ deceased never given any chance of any complaint to the management. Due to the negligence of respondent and violation of rules & norms of the Government guidelines, on 19.05.2022 the cylinder, which were kept to run the factory suddenly blast and due to which the fire broke out in the factory, in which Sh. Inderjeet Pandey, workman lost his life. Due to the fire and blast in the factory, the workman expired on the same day living behind him above said legal heirs. After the accident took place in the factory, Sh. Inderjeet Pandey (workman) was taken to the Jag Pravesh Chandra Hospital, Shastri Park, Delhi, where the MLC was conducted and the workman was declared dead. His post-mortem was also conducted. The incident was also widely published in the daily newspapers. A FIR bearing No. 311/2022, U/s 285/304A/34 IPC was registered against the respondent in the PS Dayalpur, Delhi on 20.05.2022. When no action was taken on the aforesaid FIR and the management was not arrested, being aggrieved with the act and conduct of the police officials, the petitioner filed a complaint to the District Magistrate, North – East, Delhi on 25.05.2022 and further made a complaint on 07.06.2022 to the DCP, Seelampur, Delhi and on 08.06.2022 the petitioner/ claimant again moved a complaint to the SHO, PS Dayalpur and the Commissioner of the Police, but no action was taken. Due to the negligent and violating the rules and norms of the government, the sudden death of workman/ deceased has been caused, therefore the management/ respondent is liable to pay the compensation to the petitioners/ claimant. The claimants have prayed that respondent be directed to pay compensation of Rs. 1,50,00,000/-.

3. Summon were issued to the respondent with direction to appear before this authority to file reply/defence in the matter. The Respondent has appeared but despite providing ample opportunities did not file written statement and even stopped appearing therefore respondent was proceeded ex-parte on 30.01.2023. The Delhi Police filed EAR in this matter on 05.01.2023. On completion of pleading following issues were framed :-

- (i) Whether there exists employer-employee relationship between the respondent and the deceased Sh. Inderjeet Pandey



- (ii) Whether Sh. Inderjeet Pandey sustained injury out of and during the course of employment?
- (iii) And if yes, to what amount the claimants are entitled to & what directions are necessary in this regard?
- (iv) Any other relief?

4. The claimant filed evidence by way of affidavit and her examination in chief was recorded. Arguments heard.
5. I have gone through the claims, replies and documents filed by the parties and my findings are as under:-

Issue No. 1 & 2 :-

The claimant in her claim has stated that Sh. Inderjeet Pandey was employed with the respondent for last 11 years. On 19.05.2022 while he was on duty in the factory of the respondent cylinder got blast due to which fire broke out in the factory and because of the fire and blast Sh. Inderjeet Pandey sustained grievances injury and expired on the same day. After his death he was taken to Jag Pravesh Chandra Hospital, where the doctors declared him brought dead. The claimant has filed her evidence by way of affidavit and also examined as PW1/A. The claimant has Exhibited Copy of Aadhar Card of Smt. Sangeeta Devi as Ex. PW1/1 (OSR), Copy of Aadhar Card of deceased Sh. Inder Jeet as Ex. PW1/2 (OSR), Copy of MLC as Ex. PW1/3 is de-Ex. as Mark - A, Copy of Postmortem Report as Ex. PW1/4 is de-Ex. as Mark - B, Copy of FIR as Ex. PW1/5 (colly), Copy of dead body slip as Ex. PW1/6 (OSR), Copy of cremation slips as Ex. PW1/7 (colly) (OSR), Copy of complaints as Ex. PW1/8 (OSR) (colly 4 pages), Copy of education certificate of petitioner No. 2 to 4 as Ex. PW1/9 is de-Ex. as Mark -C (colly 6 pages), Copy of insurance policy bond as Ex. PW1/10 is de-Ex. as Mark D (colly), Copy of legal notice dated 24.06.2022 alongwith postal receipt as Ex. PW1/11 (colly 10 pages).

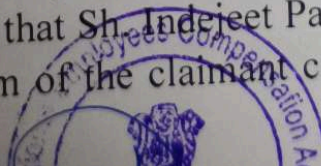
To prove employer - employee relationship the claimant relies on FIR No. 311/2022 Ex. PW1/5 (colly). In the FIR (Ex. PW1/5) it is mentioned that there is a fire in a factory at B-82, Old Mustafabad 33 Foota Road, Gali No. 23, it is not known who all are inside the factory. It is further mentioned that



the persons who are stuck in the factory have been sent to hospital by PCR and ambulance. The details of the persons who have been rescued from the factory and sent to hospital is as under :-

Ser No.	Name of the person	MLC No.	Name of the hospital in which the accident victim were admitted
1.	Ms. Husnara W/o Sh. Shahid Ali	2080/12/22	GTB Hospital
2.	Shamim S/o Umardaraj	17818/22	Jag Pravesh Chandra Hospital
3.	Sh. Bappan S/o Bablu Sawpat	17814/22	
4.	Ameer S/o Anees	17815/22	
5.	Bilal S/o Ilyas	17816/22	
6.	Md. Gulfam S/o Asraf	17817/22	
7.	Sh. Inderjeet Pandey S/o Sh. Ram Kuber Pandey	17813/22	

The MLC No. 17813/22 is placed as Mark A in the evidence and is also part of EAR filed by the police, where in it is mentioned – A/H/O injury due to cylinder blast at Gali No. 23, New Mustafabad at around 12.30 PM on 19.05.2022. Further the fire accident dated 19.05.2022 was also reported in the news paper Navbharat Times on 20.05.2022 stating that – *Mustafabad ki factory main tej dhamake ke sath lagi aag, ek ki maut 6 jakhmi. Marne vale Inderjeet ke parivar main matam.* The accident was also reported by Dainik Jagran New Paper on 20.05.2022 – *Avadh factory main lagi aag ek ki maut - purvi Delhi ke Mustafabad me hua jordan dhamaka, gambhir roop se jhulse 6 karmchario ki halat najuk.* The respondent neither filed his written statement nor he produced himself in the witness box for cross examination. The claimant in her deposition has stated that Sh. Inderjeet Pandey was employed with the respondent for 11 years and on 19.05.2022 he was on duty when he met with accident. The evidence led by her clearly shows that Sh. Inderjeet Pandey was present at the factory of the respondent on 19.05.2022 and he met with an accident due to which he died. There is always a presumption that only the employees/ workers are allowed to work in a factory and it is a fact that Sh. Inderjeet Pandey was in the factory at the time of accident. The claim of the claimant corroborates with the evidence



filed by claimant. Further the evidence of the claimant is un-rebutted and uncontroverted. Therefore it is held that Sh. Inderjet Pandey was the employee of respondent and he met with an accident out of and during the course of employment due to which he sustained fatal injuries.

Issue No. 3 :-

Since issue No. 1 & 2 have been decided in favour of the claimant therefore the claimants are entitled to compensation, which is calculated as under :-

As far as wages of the deceased is concerned, the claimants have stated that the deceased was getting Rs.20,000/- per month. However, as provided under section 4(1-B) the wages for the purpose of calculation of compensation is taken as Rs.15,000/-

Age 42 years as per Aadhar card.

Relevant factor of 42 years of age = 178.49

50% of last drawn salary @ Rs 15,000 p.m. = 7,500/-


Amount of Compensation = $178.49 \times 7,500/-$ = Rs.13,38,675/-

6. As per the provisions of the Act, the respondent should have made the payment of compensation within one month from the date it fell due i.e.19.05.2022. Therefore, as per the provisions of Clause (a) of Sub Section (3) of Section-4A of the Act, the claimants are also entitled for simple interest @ 12% p.a. on the awarded amount of Rs. 13,38,675/- w.e.f. 19.05.2022 till the date of realization of the compensation amount by the Respondent.
7. A show cause notice under section 4(A)(3)(b) for imposition of penalty was issued to the respondent. Respondent has not shown any reasonable ground for not making payment of compensation to the claimants nor they have filed any reply to the show cause notice. Therefore, the respondent is also held liable to pay Rs.3,34,669/- i.e. 25% of the awarded amount as penalty.



8. In view of above, the respondent i.e. Mohd. Ansar Saifi S/o Mohd. Ishaq, F-83, Gali No. 23, Near 33 Foota Road, New Mustafabad, Delhi – 110094 Also at :E-29, Prem Gali No. 1, East Babarpur, Delhi – 110032 is directed to deposit Rs. 13,38,675/- (Thirteen Lakh Thirty Eight Thousand Six Hundred Seventy Five Only) alongwith 12% interest w.e.f 19.05.2022 to till date of realization, Rs. 3,34,669/- (Three Lakh Thirty Four Thousand Six Hundred Sixty Nine Only) as penalty and Rs. 5,000/- towards funeral charges in the account of **Commissioner Employees Compensation District, North East-1** within a period of thirty (30) days of passing of this order, failing which proceedings to recover the awarded amount, as an arrear of land revenue, shall be initiated as per the provisions of Section 31 of the Act.

Given under my hand and seal of this 23th day of June, 2023.


(AMARDEEP)
Commissioner Employees Compensation
