

By Speed Post/Regd.



BEFORE SH. K.M.SINGH, COMMISSIONER  
(EMPLOYEE'S COMPENSATION ACT, 1923)  
GOVT. OF NCT OF DELHI, LABOUR DEPARTMENT  
(EAST DISTRICT), VISHWAKARMA NAGAR, JHILMIL COLONY,  
DELHI-110095

No.CEC-I/ED/38/2021/ 2848-50 Dated: 19-07-22

**In the matter of:-**

Sh. RadheyShyam Singh  
S/o Sh. Gauri Shankar Singh  
H.No. 128A, Gali No.26 K,  
Molar band Extension,  
Badarpur, South Delhi-110044

....Claimant

**Through**

Delhi Dukan Evam Sansthan Kamgar Union  
277, Pratapkhand, Vishwakarma Nagar,  
Delhi-110095

.....Claimant's A.R.

VERSUS

M/s Radius Infratel Pvt. Ltd.  
Through its Director, Sh. Nikhil Bansal  
Plot No.4B, IInd Floor, District Centre  
MayurVihar Extension, Phase-I,  
Delhi-110091

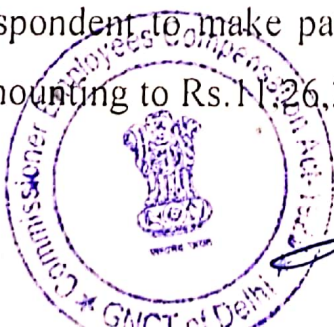
.....Respondent

**ORDER**

1. Vide this order, I shall dispose of the claim application dated 06.10.2021 filed by the claimant under Employee's Compensation Act, 1923 (hereinafter referred to as an 'Act') stating therein that he was working with the respondent since 16.01.2017 on the post of "Engineer" and his last drawn salary



was Rs.29,790/- per month and respondent has issued an appointment letter and was deducting contribution of PF from his salary. The claimant has stated that he served the respondent with hard work, full dedication and honesty and has never given chance of any complaint to the respondent. It has further been stated by the claimant that the respondent sent him to other office located at Plot No.68, 1st Floor, Ahinsha Khand, Indirapuram, Sahibabad, Ghaziabad, U.P for some official work and at around 4:15 P.M. on 18.03.2020 when he was returning from Ghaziabad, U.P to his office located at Delhi, he fell down from the auto in which he was sitting as the auto got jumped due to a pit on the road because of this he fell down outside the auto in which he himself, other passenger and auto driver got injured. The claimant has stated that he had undergone a surgery in his right hand prior to the accident which was not totally healed and due to this accident he again sustained injury in his right hand regarding which he informed to his office but the respondent did not provide him any leave and continuously called him at his work place and because of this, his injury got severe and due to injury sustained by him, his right hand was amputated just above elbow. It has also been stated that at the time of accident the age of claimant was 49 years and the claimant has received approximately 80% of injury and therefore he is entitled for compensation amounting to Rs.11,26,584/-. The claimant sent a demand noticed dated 16.08.2021 to the respondent asking for compensation amount but the respondent did not pay any compensation amount and in the last has prayed to direct the respondent to make payment of compensation amount which is amounting to Rs.11,26,258/- with 12% interest and 50% penalty.



2. That notices were issued to the respondent. The respondent filed reply mentioning therein that the claim filed by the claimant is not maintainable being infructuous, devoid of any merit and is total abuse of law as the claimant is trying to extort irrational sum of money from the company which is in the Liquidation phase under the provisions of the Insolvency & Bankruptcy Code, 2016. It has been further submitted by the respondent that the Hon'ble National Company Law Tribunal, vide its order dated 31.05.2021 ordered Liquidation in the matter of corporate debtor Radius Infratel Private Limited and has appointed Sh. Arvind Garg as Liquidator and has drawn attention to the following provisions of Insolvency & Bankruptcy Code, 2016:

*"33. Initiation of liquation-*

*(5) Subject to Section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor"*

*"60. Adjudicating Authority for corporate persons-*

*(5) Notwithstanding anything to the contrary contained in any other law for the time being in force, the National Company Law Tribunal shall have jurisdiction to entertain or dispose of-*

*(a) any application or proceeding by or against the corporate debtor or corporate person;*

*(b) any claim made by or against the corporate debtor or corporate person, including claims by or against any of its subsidiaries situated in India; and*

*(c) any question of priorities or any question of law or facts, arising out of in relation to the insolvency resolution or*



liquidation proceedings of the corporate debtor or corporate person under this Code"

"238. Provisions of this Code to override other laws.-

The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law."

That respondent has further stated that in terms of above aforesaid provisions, Insolvency & Bankruptcy Code, 2016 has an overriding effect on all other statutes and any proceedings, fresh suits, claims, if any shall lie solely before Hon'ble National Company Law Tribunal and no fresh suit of proceedings can be instituted against the corporate debtor. The respondent has also relied on the reply filed by them in Case Bearing No. SC/ED/128/2020 with same title and has requested to dismiss the claim application.

3. That rejoinder was filed by the claimant side denying the contents of reply and reiterating the contents of claim.

4. That on pleadings of both the parties following issues were framed as agreed by both the parties-

(i) Whether the claimant Sh. Radhey Shyam Singh met with an accident & got injured arising out of and during the course of employment?

(ii) And if so, to what amount of compensation & other relief is he entitled to and what direction are necessary in this respect?

5. That claimant filed evidence by way of affidavit dated 19.04.2022 Exbt. as WW1/A duly attested by Notary Public alongwith documents Exbt. as WW1/1 to WW1/7 i.e. copy of

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*[Handwritten signature]*

Aadhar Card, copy of appointment letter issued by respondent, copy of increment letter dated 24.05.2018 issued by respondent, copy of identity card, copy of discharge summary issued by AIIMS, Delhi, copy of demand notice dated 16.08.2021 and copy of postal receipt dated 16.08.2021. Copy of evidence was given to the respondent and during the proceedings A.R of respondent stated that he does not want to cross the claimant and requested that the evidence of claimant be closed. Claimant/A.R of claimant also requested to close the evidence therefore the evidence of claimant side was closed.

That respondent stated that he neither wants to file his evidence nor lead the evidence and requested to close their evidence therefore evidence of respondent side was also closed. Matter was argued by both the parties. Respondent did not submit anything and A.R of claimant reiterated the same as mentioned in the statement of their claim and evidence.

6. That on perusal of the provisions of Insolvency & Bankruptcy Code, 2016, it is noted that IBC, 2016 has an overriding effect on all other statutes and Section 33, 238 alongwith Section 14 of IBC, 2016 stipulates as under:

*(1) Subject to provisions of sub-sections (2) and (3) on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:-*

*(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*



*[Handwritten signature]*

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

7. That in view of above Moratorium U/s 14 as mentioned in IBC, 2016 the present matter cannot be decided at this stage and is therefore adjourned sine-die vide this Interim Order. However, notwithstanding aforesaid order the claimant/A.R of claimant is advised to approach Sh. Arvind Garg, IRP named above/NCLT to pursue their claim and keep this authority informed of development/disposal, if any ahead.

Given under my hand and seal on 18<sup>th</sup> Day of July,  
2022.



*(Signature)*  
(K.M.SINGH)  
Commissioner, Employees Compensation