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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 23rd September, 2016**

+ FAO 95/2013

RELAINCE INFRATEL LTD. & ORS. Appellants
Through: Mr. Rohit Jain, Adv.

versus

BETA TELE NETWORKS PVT LTD Respondent
Through:

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the order dated 17th October, 2012 whereby the Commissioner, Employee's Compensation has declined to grant the recovery rights to the appellant to recover the compensation amount from the respondent.
2. The accident dated 6th March, 2008 resulted in the death of Deepak Kumar Rai. The deceased was working under the respondent. The deceased was survived by his widow, daughter and parents who filed the application for compensation against the respondent as well as the appellant. The appellant is the principal employer of the contract awarded to the respondent.
3. Vide order dated 21st November, 2011, the Commissioner, Employee's Compensation directed the appellant to pay compensation of Rs.4,34,401/- along with interest @ 12% per annum to the claimants.
4. The appellant filed an application before the Commissioner, Employee's Compensation under Section 12(2) of the Employee's

Compensation Act seeking recovery rights against the respondent which have been dismissed by the Commissioner vide order dated 17th October, 2012.

5. Learned counsel for the appellant submits that under Section 12(2) of the Employee's Compensation Act, the Commissioner, Employee's Compensation is under a legal duty to adjudicate all questions relating to the recovery rights being sought by the principal employer against the contractor.

6. There is merit in the appellant's contention. The Commissioner, Employee's Compensation has wrongly rejected the appellant's application seeking recovery rights against the respondent.

7. The appeal is allowed and the appellant is granted the recovery rights to recover the amount paid by the appellant to the legal representatives of the deceased, Deepak Kumar Rai in satisfaction of the order dated 21st November, 2011, from the respondent.

8. The appellant is at liberty to execute the recovery rights against the respondent in accordance with law.

9. The record of the Commissioner, Employee's Compensation be returned back forthwith.

10. Copy of this order be given *dasti* to counsels for the parties under signatures of the Court Master.

J.R. MIDHA, J.

SEPTEMBER 23, 2016

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