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

*Date of Decision: September 28, 2016*

+ FAO 212/2016

M/S SILVER TOUCH ENTERPRISES ..... Appellant

Through: Mr. D.D.Dayani & Mr. Chand  
Zafar, Advocates

Versus

RADHA SHARMA & ANR. .... Respondents

Through: Mr. Pratima N. Chaudari,  
Advocate

**CORAM:**  
**HON'BLE MR. JUSTICE SUNIL GAUR**

**JUDGMENT**

**ORAL**

The appellant is the employer, who has been directed to pay compensation of ₹6,67,984/- with interest in proceedings under the *Employee's Compensation Act, 1923* while holding that deceased had died during the course of employment. The challenge to the impugned order of 4<sup>th</sup> March, 2016 in this appeal is on the ground that three months prior to her death, Smt. Laxmi @ Lachho had resigned and on the day of incident, she had come to appellant's premises to visit her friend and she had died natural death whereas the case of the respondents-claimants is that due to the work pressure, the deceased was under tremendous pressure and because of the excessive stress and strain of her

employment, she had died at her work place. Reliance is placed upon decision of Supreme Court in *Param Pal Singh Through Father (Mst.) v. M/s National Insurance Co. & Anr.* 203 I AD (S.C.) 610 to submit that an expanded meaning is to be given to the word ‘accident’ as it would include a mishap or untoward incident. Thus, it is submitted that impugned order deserves to be maintained.

Upon hearing and on perusal of the impugned order, I find that even the issues have not been correctly reproduced in the impugned order, what to talk of the findings on the issues. The plea of resignation has not been dealt at all in the impugned order. In the considered opinion of this Court, the impugned order discloses utter non-application of mind and so, it deserves to be set aside with direction to the *Commissioner, under The Employee’s Compensation Act* to permit the parties to lead evidence on the issue of resignation and thereafter return the finding about existence of relationship of employer-employee on the date of incident. Since, it is the case of appellant that deceased had come to the premises of the appellant to meet her friend, therefore, the necessary ingredient of ‘*accident taking place during the course of employment*’ has to be considered by the trial court in right perspective, after the evidence is led by the parties.

In view of the aforesaid, the impugned order of 4<sup>th</sup> March, 2016 is hereby set aside and the matter is remanded back to the Commissioner, under the *Employee’s Compensation Act* to proceed further in terms of the directions issued in this judgment.

In view of mandate of Section 25A of the *Employee's Compensation Act, 1923*, the Commissioner under aforesaid enactment shall make all endeavours to decide the claim petition within the time stipulated in the aforesaid provision. The *amount deposited by the appellant be refunded forthwith.*

With aforesaid directions, this appeal is disposed of.

**(SUNIL GAUR)**  
**JUDGE**

**SEPTEMBER 28, 2016**

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