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

Date of Decision: August 10, 2016

+ **FAO 382/2016**

**M/S SWASTIK ENGINEERING TOOLS THR ITS
PROPRIETOR SUNIL CONDIL** Appellant
Through: Mr. Surendra Mehra, Advocate

versus

ANITA Respondent
Through: Nemo

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

% **JUDGMENT**
(ORAL)

C.M.No.29133/2016 (Exemption)

Allowed subject to all just exceptions.

C.M.No.29136/2016 (delay in re-filing)

There is delay of 17 days in re-filing the accompanying appeal.

For the reasons stated in the application, it is allowed and the delay is condoned.

The application stands disposed of.

FAO 382/2016 & C.Ms.No.29134-35/16 (Stay & delay)

The present appeal is accompanied by a Certificate issued by the Deputy Labour Commissioner under *the Employee's Compensation Act, 1923* to the effect that awarded compensation amount has been deposited

by the appellant.

The factual background of this case is already noticed in the impugned order and for this reason, it is not recapitulated in this judgment.

Impugned order of 10th February, 2016 grants compensation of ₹5 lacs odd with interest on account of respondent-injured suffering 70% disability due to amputation of her left hand due to this accident. The challenge to the impugned order in this appeal is on the ground that there was a wilful negligence on the part of respondent-injured as she was wearing metallic bangles while she was washing Dei Roller machine.

Learned counsel for appellant submits that apart from medical expenses, the respondent-injured has been already compensated to the tune of ₹78,000/- odd.

Upon hearing and on perusal of the impugned order and copy of the evidence on record, I find that in the face of evidence on record, it cannot be said that there was any wilful negligence on the part of respondent-injured. It is being so said because respondent-injured in her evidence has categorically stated that she was wearing glass bangles, which had got stuck in the machine and respondent-injured has denied the suggestion that there was any direction to take off the bangles or rings while cleaning the Dei Roller machine. Respondent-injured has also denied in her evidence that any safety guidance was displayed by the appellant in the factory. Thus, it cannot be said that there was any wilful negligence on the part of respondent-injured.

Payment of compensation of ₹78,000/- and medical expenses is no substitute for the 70% disability suffered by respondent-injured. Loosing

of one hand is a shattering experience, which respondent-injured has undergone and this disability greatly diminished the chances of her re-employment and of her enjoying the life.

In such a situation, grant of compensation of ₹5 lacs odd cannot be said to be unreasonable or exorbitant. In the considered opinion of this Court, the impugned order does not suffer from any infirmity and thus there is no merit in this appeal. Consequently, this appeal and the applications are dismissed.

(SUNIL GAUR)
JUDGE

AUGUST 10, 2016

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