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

% **Date of Decision: 11th April, 2017**

\+ FAO 167/2016 & CM 23235/2016

M/S. PILE FOUNDATION CONSTRUCTION CO... Appellant
Through: Mr.Rajiv Ranjan Dwivedi, Advocate

versus

COMMISSIONER EMPLOYEE'S COMPENSATION & ANR. ..... Respondents
Through: Mr.Anand Vardhan, Mr.Shiv Kumar Sharma, Advocates for respondent no.2

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

JUDGMENT (ORAL)

1. The appellant has challenged the order dated 30th December, 2015 whereby compensation of Rs.2,74,534/- has been awarded to respondent no.2.

2. Respondent no.2 filed an application for compensation before the Commissioner, Employees' Compensation on the ground that he was employed as a fitter with the respondent no.2 and on 22nd October, 2005, he was operating the machine at the respondent's site at Kanpur when he met with an accident and received grievous injuries in his left leg which resulted in 55% disability. The Commissioner, Employees' Compensation awarded compensation of Rs.2,74,534 by taking the permanent disability of respondent no.2 as 55%.

3. Learned counsel for the appellant urged at the time of the hearing that the appellant was awarded the contract by M/s. Nagarjuna Construction Company Ltd. and the appellant had in turn appointed Mr. Suresh Kumar Shah as the Labour Contractor to execute the work.

4. This Court is of the view that there is no infirmity in the award of the Commissioner, Employees' Compensation to award the compensation to respondent no.2 in view of Section 12 of the Employee's Compensation Act.

5. Learned counsel for the appellant submits that the appellant be granted recovery rights against M/s. Nagarjuna Construction Company Ltd. and Mr. Suresh Kumar Shah. The appellant is at liberty to initiate appropriate legal proceedings to recover the amount from the aforesaid persons in accordance with law.

6. There is no infirmity in the impugned order. The appeal is therefore, dismissed. The pending application is also dismissed.

7. The appellant has deposited a sum of Rs.6,19,534/-(Rs.2,74,534 + Rs.3,45,000/-) and the said amount is lying with State Bank of India, Pushp Vihar. The Commissioner, Employees' Compensation is directed to disburse the aforesaid amount by instructing State Bank of India, Pushp Vihar to keep Rs.5,40,000/- in 120 FDRs of Rs.4,500/- each in the name of respondent no.2 for the period 1 month to 120 months respectively with cumulative interest.

8. The balance amount, after keeping Rs.5,40,000/- in FDRs, be released to respondent no.2 by transferring the same to his savings bank A/c No.3603654448 with Central Bank of India, Mayur Vihar Phase-I (MICR Code: 110016168, IFSC Code: CBIN0284986).

9. All the original FDRs shall be retained by State Bank of India. However, the statement containing FDR number, FDR amount, date

of maturity and the maturity amount be furnished to respondent no.2.

10. The maturity amount of the FDRs of respondent no.2 shall be transferred to the aforesaid savings bank account of respondent no.2.

11. No cheque book or debit card be issued to respondent no.2 by Central Bank of India, Mayur Vihar without permission of this Court. However, in case, the debit card/cheque book have already been issued to respondent no.2, Central Bank of India, Mayur Vihar shall cancel the debit card and/or cheque book.

12. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

13. Respondent no.2 is at liberty to approach this Court for release of further amount in case of any financial exigency.

14. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court.

APRIL 11, 2017 **J.R. MIDHA, J.**

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