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

+ **FAO 129/2017 & CM Appln. 17241/2016**

SANT RAM

..... Appellant

Through: Mr. Ravinder Kumar, Adcocate

versus

RAM & RAMBHUL

..... Respondent

Through: Mr. Man Mohan Swaroop and Ms.
Sanyogita Swaroop, Advocates
SI Kapil Kumar, P.S. Mansarovar
Park.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **22.11.2017**

1. The appellant has challenged the order dated 15th December, 2014 whereby the Commissioner, Employees' Compensation awarded compensation of Rs.4,35,941/- to the respondent.
2. Under the proviso to Section 30(1) of the Employees' Compensation Act, the deposit of the compensation amount with the Commissioner, Employees' Compensation is pre-condition for the maintainability of the appeal. However, the appellant has not deposited the compensation amount and therefore, this appeal is not maintainable. The proviso to Section 30(1) of the Employees' Compensation Act is reproduced hereunder:-

“Section 30. Appeals.— (1) An appeal shall lie to the High Court from the following orders of a Commissioner, namely—

(a)

(aa)

(b)

(c)

(d)

(e)

Provided that no appeal shall lie against any order unless a substantial question of law is involved in the appeal and, in the case of an order other than an order such as is referred to in clause (b), unless the amount in dispute in the appeal is not less than a ten thousand rupees or such higher amount as the Central Government may, by notification in the Official Gazette, specify

Provided further that no appeal shall lie in any case in which the parties have agreed to abide by the decision of the Commissioner, or in which the order of the Commissioner gives effect to an agreement come to by the parties:

Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.”

(Emphasis supplied)

3. Learned counsel for the appellant submits that the appellant does not have the means/capacity to deposit the compensation amount. The appellant has filed the affidavit of his assets, income and expenditure in terms of order dated 03rd March, 2017. The affidavit has been perused. The appellant has not disclosed his occupation as well as the board cutting machine on which the respondent was working and he suffered an accident on 28th August, 2012. During the hearing dated 03rd March, 2017, the appellant had not disputed that he had a board cutting machine but only the relationship of the employment was disputed. Be that as it may, the Recovery Officer shall look into these aspects while executing the order.

4. The appeal is dismissed on the ground that the appellant has not deposited the compensation amount in terms of the proviso to Section 30(1) of the Employees' Compensation Act. The pending application is also dismissed.

J.R. MIDHA, J.

NOVEMBER 22, 2017/nd