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

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Date of Decision: 22nd March, 2017

+ FAO 229/2016 & C.M. Appl. 18945/2016

M/S VIJAY SALES

..... Appellant

Through: Mr. Sukhbir Singh, Advocate

versus

KARAMAT HUSSAIN & ORS

..... Respondents

Through: Mr. Peeush Kulshreshtha,
Advocate for respondent nos. 1
and 2
Mr. Mahesh Ranjan, Advocate
for Respondent no.3.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the impugned order dated 29th February, 2016 whereby the Commissioner, Employees' Compensation awarded compensation of Rs.11,71,044/- to respondents no.1 and 2.

2. Respondents no.1 and 2 are the parents of late Mehfooz Alam who fell down from the first floor of the appellant's show room while installing a split air conditioner. The Commissioner, Employees' Compensation held the appellant being the principal employer and respondent no.3 being the contractor to be jointly and severally liable to pay the compensation of Rs.11,71,044/- including the interest up to the date of the order.

3. The appellant has challenged the impugned order mainly on the ground that there is no relationship of employer and employee between the deceased and the appellant. Without prejudice, the appellant is seeking recovery rights to recover the amount from the respondent no.3.

4. The record of the Commissioner, Employees' Compensation has been received. This Court is satisfied that there is no infirmity in the findings of the Commissioner, Employees' Compensation holding the appellant to be the principal employer and liable to pay the compensation to respondents no.1 and 2. That apart, no substantial question of law arises for consideration in this appeal which is a *sine qua non* under Section 30 of the Employees' Compensation Act.

5. With respect to the prayer of recovery rights against respondent no.3, the Commissioner, Employees' Compensation has already held in para 15 of the impugned order that the appellant is entitled to recovery rights against respondent no.3.

6. Learned counsel for the appellant submits that the recovery rights have not been recorded in the concluding para 34 of the impugned order.

7. The appeal is dismissed. The liability of the appellant to pay the amount of Rs.11,71,044/- to respondents no.1 and 2 is upheld. Upon payment of the entire compensation amount by the appellant to respondents no. 1 and 2, the appellant shall be entitled to recover the same from respondent no.3.

8. The appellant has deposited Rs.8,15,400/- out of Rs.11,71,044/- with the Commissioner, Employees' Compensation. The appellant is directed to deposit the balance amount of Rs.3,55,644/- with the UCO Bank, Delhi High Court Branch by means of a cheque drawn in the

name of the UCO Bank A/c Karamat Hussain within a period of three weeks from today.

9. With respect to the sum of Rs.8,15,400/- already deposited by the appellant, a sum of Rs.5,85,522/- has already been released to the respondent no.1 by the Commissioner, Employees' Compensation.

10. The Commissioner, Employees' Compensation has transferred the balance amount of Rs.2,35,220/- to the UCO Bank, Delhi High Court Branch in terms of the order dated 17th February, 2017.

11. Respondents no.1 and 2 are having savings bank accounts with State Bank of India, Hussainabad Branch. The particulars of their savings bank accounts are as under:

- Karamat Hussain,
SB A/c No.11474452093,
State Bank of India,
Hussainabad, P.O. - Hussainabad (IFSC: SBIN0002947)
- Halima Bibi,
SB A/c No.34648104321,
State Bank of India,
Hussainabad, P.O. - Hussainabad (IFSC: SBIN0002947)

12. UCO Bank, DHC Branch is directed to keep a sum of Rs.2 lacs in 40 FDRs of Rs.5,000/- each in the name of respondent no.2 for the periods 1 month to 40 months, respectively, with cumulative interest. The balance amount be released to respondent no.1 by transferring the same to the saving bank account No.11474452093 with State Bank of India, Hussainabad.

13. Upon deposit of the balance amount of Rs.3,55,644/-, UCO Bank, Delhi High Court Branch, shall (i) release a sum of Rs.55,644/- to respondents no. 1 and 2 in equal shares by transferring the same to their savings bank accounts, and (ii) keep Rs.3 lakh in 60 FDRs of

Rs.5,000/- each in the name of respondent no.2 for the period 41 months to 100 months, respectively, with cumulative interest.

14. No cheque book or debit card be issued to the respondent No.2 by the State Bank of India, Hussainabad Branch without permission of this Court. However, in case, the debit card/cheque book have already been issued, by the State Bank of India, Hussainabad Branch shall cancel the debit card and/or cheque book.

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

16. The claimants are permitted to approach this Court for pre-mature release of FDR in the event of any financial exigency.

17. List for reporting compliance on 19th May, 2017.

18. This Court appreciates the assistance rendered by the learned counsel for the appellant in this matter.

19. This Court appreciates the Commissioner, Employees' Compensation in formulating the legal prepositions and making accurate and impartial adjudication in the impugned order.

20. Copy of this judgment be given *dasti* to counsel for the parties, under the signatures of the Court Master. Copy of this order be sent to the Commissioner, Employees' Compensation. Copy of this order be given *dasti* to learned Additional Standing Counsel, NCT of Delhi, who shall communicate this order to the Secretary (Labour) as well as the Commissioner, Employees' Compensation.

MARCH 22, 2017
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J.R. MIDHA, J.