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

\+ FAO 155/2017

M/S. GILL SANDHU HARYANA TRANSPORT CO ...... Appellant

Through: Mr. Sunil Mehta, Advocate

versus

COMMISSIONER OF LABOUR & ORS. ..... Respondents

Through: Mr. R.K. Nain, Advocate for respondent No. 3

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

<u>O R D E R</u>

% **22.11.2017**

1. The appellant has challenged the order dated 03rd June, 2014 whereby the Commissioner, Employees' Compensation awarded compensation of Rs.6,79,610/- along with the interest thereon @ 12% per annum to respondent No.3.

2. Under the proviso to Section 30(1) of the Employees' Compensation Act, the deposit of the entire compensation amount is a pre-condition for the maintainability of the appeal. 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:

<u>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.</u>"

(Emphasis supplied)

3. During the course of the hearing dated 28th March, 2017, it was submitted on behalf of the appellant that the appellant shall deposit Rs. 2,00,000/- with the Registrar General of this Court within three days and Rs. 3,00,000/- within four weeks and the appellant does not have the means to deposit the balance award amount.

4. In view of the statement made by the appellant, the appellant was directed to deposit Rs. 5,00,000/- and file an affidavit of his assets, income and expenditure as on the date of the accident i.e. 11th September, 2010 as well as on 28th March, 2017 in the format attached as Annexure-A to the order along with the documents mentioned therein within four weeks.

5. The appellant did not file the affidavit within four weeks in terms of the order dated 28th March, 2017. On 25th May, 2017, further four weeks time was sought to file the affidavit which was granted by this Court. On 17th August, 2017, further one week time was sought which was granted subject to cost of Rs. 10,000/-

6. On 24th August, 2017, the appellant filed an affidavit of his employee which is a serious violation of the order dated 28th March, 2017. This Court

therefore, vide order dated 12th October, 2017, vacated the interim order dated 28th March, 2017 and directed the appellant to deposit the balance award amount within one week.

7. The appellant has deposited Rs. 5,00,000/- with the Registrar General of this Court in terms of the order dated 28th March, 2017 and the balance amount has not yet been deposited. However, the balance amount in terms of the order dated 12th October, 2017 has not been deposited till date.

8. In view of the non-deposit of the compensation amount by the appellant which is a mandatory requirement of Proviso to Section 30(1) of the Employees' Compensation Act, this appeal is not maintainable and liable to be dismissed. The appeal is dismissed.

9. With respect to the amount of Rs. 5,00,000/- deposited by the appellant, the Registrar General is directed to instruct UCO Bank, Delhi High Court Branch to disburse the amount to respondent No.3 in the following manner:-

(i) Rs.4,50,000/- be kept in 90 FDRs of Rs.5,000/- each for the period 1 month to 90 months respectively in the name of respondent No.3 with cumulative interest.

(ii) The balance amount, after keeping Rs.4,50,000/- in FDR's be released to respondent No. 3 by transferring the same to her individual savings bank account no.314554538 with Central Bank of India, Ganaur, Sonepat.

10. All the original FDRs shall remain with UCO Bank, Delhi High Court Branch. However, the statement containing FDR number, amount, date of maturity and maturity amount shall be furnished by UCO Bank to respondent no.3.

11. The maturity amounts of the FDRs be released to respondent No.3 by transferring the same to her savings bank account.

12. No loan or advance or pre-mature discharge shall be permitted

without the permission of this Court.

13. The Central Bank of India, Ganaur, Sonepat is directed not to issue any cheque book or debit card, if the same has already been issued, the bank is directed to cancel the same and make an endorsement on the passbook. The respondent No.3 shall produce the copy of this order before Central Bank of India, Ganaur, Sonepat, whereupon the bank is directed to make an endorsement that no cheque book or debit card shall be issued to respondent No.3 without the permission of this Court. Central Bank of India, Ganaur, Sonepat shall permit respondent No.3 to withdraw money from her savings bank account by means of a withdrawal form.

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

15. Copy of this order be sent to Central Bank of India, Ganaur, Sonepat for compliance.

J.R. MIDHA, J.

NOVEMBER 22, 2017/nd