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

+ **W.P.(C) 8475/2017 & CM No.34878/2017**

M/S KANAK ENTERPRISES

..... Petitioner

Through: Mr. Pradeep Kumar Arya, Advocate

versus

SMT. MEENA BALA

..... Respondent

Through: Ms. Vandana Dhankar, Advocate

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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07.12.2017

1. The petitioner has filed the present petition under Article 226 of the Constitution of India praying for issuance of an appropriate writ, order or direction in the nature of certiorari or any other appropriate nature setting aside the impugned Award dated 27.7.2017 passed by learned Commissioner under the Workmen Compensation Act, 1923 ('Act' for short), (District North), Nimri Colony, Ashok Vihar in ID No. WCD/30/ND/15/3531 in case titled Meena Bala v. M/s Kanak Enterprises.

2. Learned counsel for the petitioner submitted that the workman (respondent before the Commissioner under the Workmen Compensation) has filed a claim under the Workman Compensation Act, 1923, which is pending. The petitioner herein has moved an application raising various objections, which read thus:

“1. That the claim of the petitioner is pending before the Hon'ble Authority and fixed for hearing on 25.5.2017 for

W.E.

2. That the petitioner has filed the claim on the ground that she is the widow of the deceased, Late Sh. Bhagwan Dass who expired on 26.6.2011. She further alleged that her husband died in the course of employment with the respondent. So, she has filed the present claim petition under the Workmen Compensation Act, 1923 against the respondent.

3. That the petitioner admitted in her claim petition in para 4 that she has already taken compensation from Railway Tribunal against the alleged accident, hence the claim of the petitioner is not maintainable under Workmen Compensation Act, 1923.

4. That, as per the statement of the claim, the deceased expired on 26.6.2011 and the present petition filed by the present petitioner on 22.9.2015 after the delay of 3 years, hence the application of the petitioner under the Workmen Compensation Act is highly time barred.

5. That the claim of the petitioner is totally false, frivolous and concocted and the same has been filed only for extracting money from respondent management, knowing that the Workmen Compensation Act is not applicable.

6. It is as well settled law that a person entitled to compensation for the bodily injury to any person can claim it either under the Motor Vehicles Act or the Workmen Compensation Act, but not under both.”

3. Learned counsel for the petitioner submitted that the impugned Award has not given any reason, except that no supporting case law or provision has been provided by the Management in support of its contention raised in the aforesaid application. The impugned Award is unsustainable and untenable in law. The Commissioner, Workmen Compensation is required to deal with each and every contention of the petitioner and pass a reasoned order while allowing or dismissing the same.

4. I have gone through the impugned order dated 27.7.2017, which reads as under:

“Arguments heard on ground of maintainability/application dated 20.5.2017 and the same is dismissed as there is no supporting case law or provision for the same.

Fixed for cross of petitioner on 04.09.2017 at 11:30 AM.”

5. The impugned order is bereft of any explicit legal reason. It does not deal with any of the contention of the petitioner. Rather, the application was dismissed abruptly on the ground that there is no supporting case law or provision for the same. I do not find it proper to keep this petition pending since the matter can be disposed of at this stage and none of the parties are going to be prejudiced. Hence, in view of lack of explicit reasons and failure of the Commissioner, Workmen Compensation to deal with the contentions of the petitioner while passing the impugned order, I deem it proper to set aside the

impugned order, with a direction to the Commissioner, Workmen Compensation to rehear the matter and pass a detailed reasoned order, after giving an opportunity of being heard to both the parties.

6. The parties are directed to appear before the concerned Commissioner, Workmen Compensation on 19.12.2017 at 10:30 am.

7. *Dasti.*

CHANDER SHEKHAR, J

DECEMBER 07, 2017/top