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

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Date of Decision: 21st August, 2017

+ W.P.(C) 10836/2015 & CM Nos.27877-27878/2015

MAHINDER SINGH

..... Petitioner

Through: Mr.Dinesh Mohan Sinha, Advocate

versus

NARESH KUMAR @ PAPPU & ANR.

..... Respondents

Through: Mr.Piyush Prabhakar, Advocate for
respondent no.1

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The petitioner has challenged the order dated 26th June, 2015 where by compensation of Rs.1,29,659/- has been awarded to respondent no.1.
2. Respondent no.1 instituted an application for compensation before the Commissioner, Employees' Compensation on 2nd August, 2010. It was pleaded in the application that respondent no.1 suffered an accident on 24th July, 2009 during the course of his employment with the petitioner. However, in the evidence by way of affidavit, the respondent no.1 deposed that he suffered an accident on 24th July, 2006. An *ex parte* award was passed by the Commissioner, Employees' Compensation on 26th June, 2015.

3. Learned counsel for the petitioner urged at the time of hearing that the claim application was barred by limitation as it was filed after more than two years of the alleged accident dated 24th July, 2006 and no application for condonation of delay was filed by respondent no.1. It is further submitted that the petitioner and respondent no.1 settled the matter on 25th August, 2009 in pursuance to which the petitioner made payment of Rs.1,25,000/- to respondent no.1 on 5th September, 2009 in full and final settlement. Copy of the agreement and the receipt of payment have been filed along with the appeal.

4. Learned counsel for respondent no.1 admits the settlement dated 25th August, 2009 in which the petitioner agreed to get respondent no.1 treated. Learned counsel for respondent no.1 however disputes the payment of Rs.1,25,000/- by the appellant on 5th September, 2009. The alleged settlement/receipt dated 5th September, 2009 is disputed as forged and fabricated.

5. Learned counsel for respondent no.1 submits that the matter be remanded back to the Claims Tribunal with liberty to respondent no.1 to amend the claim application to correct the date of the accident from 24th July, 2009 to 24th July, 2006. It is further submitted that the delay in filing the claim application be condoned by this Court.

6. Learned counsel for the petitioner has no objection to the remand of the matter back to the Commissioner, Employees' Compensation. It is submitted that the petitioner be permitted to file the written statement and contest the claim on merits.

7. The writ petition is allowed; impugned order dated 26th May, 2015 is set aside and the case is remanded back to the Commissioner, Employees'

Compensation. The delay in filing the claim application by respondent no.1 is condoned. Respondent no.1 is permitted to amend the claim application to correct the date of the accident.

8. The parties shall appear before the Commissioner, Employees' Compensation on 15th September, 2017 when respondent no.1 shall file the application for amendment of the claim application along with the amended claim application whereupon the Commissioner, Employees' Compensation shall grant an opportunity to the petitioner to file the written statement and thereafter, to respondent no.1 to file the rejoinder. The Commissioner, Employees' Compensation shall afford reasonable opportunity of leading evidence to both the parties and thereafter, pass a fresh order in accordance with law.

9. The record of the Commissioner, Employees' Compensation be returned back along with the copy of this judgment.

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

AUGUST 21, 2017
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J.R. MIDHA, J.