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

+ W.P.(C) 11310/2017 & CM Nos.46173-76/2017

M/S AKASH ENTERPRISE

..... Petitioner

Through: Mr. Ravindra Narayan, Advocate

versus

SH. ANIL KUMAR AND ANR

..... Respondents

Through: Mr. Ashok Kumar Singh & Mr.
Nitish Kumar Singh, Advocate for
respondent No.1

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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20.12.2017

1. The petitioner has filed the present writ petition under Article 226 of the Constitution of India for setting aside the impugned order dated 27.9.2017 passed by Commissioner Employees' Compensation, Dy. Labour Court (Distt. North-East) in Case No.CEC-D(NE) 50/16 titled as Anil Kumar v. Akash Enterprises, whereby the Labour Court was pleased to dismiss the application under Order IX Rule 13 read with Section 151 CPC as well as for setting aside the impugned *ex parte* Order/Award dated 12.5.2017, whereby the petitioner was directed to deposit Rs.8,85,480/- on account of Employment Death Compensation, payable to the legal heirs/dependent of deceased Veer Singh along with simple interest @ 12% p.a. w.e.f. 7.6.2016 till its realization within a period of 30 days from the date of issue of the order.

2. Learned counsel for the petitioner, during the course of arguments, submitted that the petitioner was proceeded *ex parte* by the Commissioner, Employees' Compensation and has not been granted proper opportunity of being heard. In that regard, the petitioner moved an application under Order IX Rule 13 CPC for setting aside the *ex parte* order dated 12.5.2017, however, vide order dated 27.9.2017, the application under Order IX Rule 13 was dismissed.

3. Learned counsel for the petitioner submitted that the petitioner is ready to deposit the entire amount with the concerned Commissioner, Employees' Compensation. Learned counsel for the respondent No.1 submitted that just to cut short the delay, the *ex parte* proceedings may be set aside, subject to heavy costs, with a direction that the proceedings before the Commissioner, Employees' Compensation may be disposed of as expeditiously as possible, preferably within a period of four months. Accordingly, in the interest of justice and the contentions raised by the learned counsel for the petitioner as well as the submissions of learned counsel for the respondent, the orders dated 12.5.2017 as well as 27.9.2017 are set aside, subject to costs of Rs.25,000/- upon the petitioner, with the condition that the petitioner shall deposit the entire amount ordered within six weeks with the Commissioner, Employees' Compensation and shall file its written statement/reply within seven weeks from today. Furthermore, the Commissioner Employees' Compensation shall dispose of the claim of the concerned claimants expeditiously, preferably within a period of six months. In case of failure of the

petitioner to deposit the amount or to pay the costs, it shall be deemed that the orders have not been set aside and shall be enforceable. The parties shall appear before the Commissioner, Employees' Compensation on 31.01.2018 at 11.00 a.m.

4. In view of the aforesaid directions, learned counsel for the petitioner submitted that the petition may be dismissed as withdrawn. Accordingly, the writ petition and the pending applications are dismissed as withdrawn.

CHANDER SHEKHAR, J

DECEMBER 20, 2017

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