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

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Date of Decision: 17th July, 2018

+ FAO 284/2015 & CM No.18346/2015

M/S SUNDER CHEMICAL AND

AGARBATTI WORKS PVT LTD

..... Appellant

Through: Mr. Surender Tyagi, Adv.

versus

BALWANT SINGH

..... Respondent

Through: Mr. Rama Shankar and Mr. Saurabh,
Advs.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T (O R A L)

1. The appellant has challenged the order of the Commissioner, Employees' Compensation whereby compensation of Rs.95,004/- has been awarded to the respondent.
2. The respondent instituted an application for compensation before the Commissioner, Employees' Compensation on the averments that he was working as a Chowkidar with respondent since 04th April, 1990 with last drawn wages of Rs.5,000/- per month; the respondent was posted at the godown/residence of the respondent at D-87, Mahendru Enclave, Delhi after the shifting of the respondent's institution to Himachal Pradesh; on 10th August, 2009, the respondent was picking big drums when he skid and fell down on the floor which resulted in grievous injuries; the respondent's left

leg was operated on 21st April, 2012; the appellant terminated the respondent on 30th March, 2013; the respondent demanded the compensation and medical expenses by letter dated 18th April, 2013.

3. The appellant did not file any written statement to the claim of the appellant. However, the appellant submitted one page letter dated 21st May, 2014 to the Commissioner stating that the appellant's operations stopped as back as in the year 2010 and the respondent never worked with the appellant. The appellant stopped appearing before the Commissioner thereafter and was proceeded *ex parte*. The respondent led *ex parte* evidence to prove his claim whereas no evidence was led by the appellant.

4. The Commissioner, Employees' Compensation passed an *ex parte* award against the appellant holding the appellant liable to pay compensation of Rs.95,004/- along with interest @ 12% per annum.

5. Learned counsel for the appellant submits that the respondent never worked with the appellant and has no concern with the appellant's company. Learned counsel for the appellant seeks setting aside of the *ex parte* order and permission to lead evidence to prove his defense. It is further submitted that the appellant stopped appearing under the impression that the appellant will receive fresh notice/summons from the Commissioner, Employees' Compensation to appear at the stage of evidence.

6. This Court is not satisfied with the justification given by the appellant for not appearing before the Commissioner, Employees' Compensation after the filing of the reply. The prayer for setting aside of the *ex parte* order is, therefore, rejected.

7. No substantial question of law arises for consideration in this appeal which is *sine qua non* of Section 30 of the Employee's Compensation Act.

That apart, this Court has not find any merit in the appellant's case who has not led any evidence before the Commissioner, Employees' Compensation to prove his case.

8. The appeal is dismissed. The pending application is disposed of.

9. The appellant has deposited Rs.1,64,319/- with the Registrar General of this Court.

10. List for disbursement of the compensation amount on 10th August, 2018.

11. Copy of this judgment be given *dasti* to counsels for the parties under the signatures of the Court Master.

JULY 17, 2018

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J.R.MIDHA, J.

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