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

Judgment delivered on: 18<sup>th</sup> March, 2021

+ **FAO 92/2021 & CM. APPLS. 8358-60/2021**

**ANIL KUMAR JAIN**

..... Appellant

versus

**SMT. POOJA**

..... Respondent

**Advocates who appeared in this case:**

For the Petitioner: Mr. Akhil Sharma, Advocate.

For the Respondent: None.

**CORAM:-**

**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**JUDGMENT**

**SANJEEV SACHDEVA, J. (ORAL)**

1. Appellant impugns judgment dated 14.01.2021 whereby based on an admission, the claim petition has been allowed under Order XII Rule 6 CPC.

2. The facts leading to the claim petition are that the appellant is a scrap dealer and runs a business in a factory bearing number D-3/31, Phase-II, Mayapuri Industrial Area.

3. On 17.10.2018, as per the claimant, a fire took place in the factory of the appellant and the husband of the claimant died in the fire. As per the claimant, her husband was employed by the appellant

for sorting scrap and an explosion took place in the scrap while he was sorting the same and he got caught in the fire and his burnt body was recovered from under the scrap after search.

4. In the impugned order, the Commissioner has relied on the admission of the appellant made in statement given by him before the Commissioner on 15.01.2021.

5. Appellant had appeared before the Commissioner and admitted that he runs a business of scrap and on the day of fire he was taking lunch when one of his employees informed him through telephone call that a fire was taking place. He admitted that 3-4 labourers hired by him were sorting scrap.

6. He also stated that he was informed that the deceased came for duty but after lunch he was not traceable and in the night the police took out his dead body from under the burnt scrap. He also stated before the Commissioner that he had paid Rs.11,000/- through a co-worker for payment to the family of the deceased for cremation.

7. Based on the said admission, the Commissioner passed the subject impugned award and directed payment of compensation to the claimant.

8. Before this court on 12.03.2021, learned counsel submitted that no fire had taken place in the premises of the appellant and prayed for time to produce material for the same.

9. Learned counsel has filed a copy of the FIR as well as the charge-sheet. He submits that the FIR as well as the charge-sheet clearly establish that fire did not take place in the factory of the appellant and had taken place in adjoining premises, which is an open piece of land.

10. It is contended by the leaned counsel for the appellant that an opportunity should be granted to the appellant to cross-examine the witnesses and the Commissioner has erred in passing an award based merely on admission.

11. A perusal of the written statement filed by the appellant before the Tribunal shows that there is an admission that fire had taken place in his factory. In paragraph 4 of the written statement, it is admitted that fire had taken place in his factory on account of which, it is alleged, and heavy financial loss was suffered by him.

12. Perusal of copy of the FIR shows that though the place of occurrence mentioned in paragraph 5 of the FIR is D-3/30, Phase-II, Mayapuri, however, in the body of the FIR in paragraph 12, it is stated that when the Investigating Officer reached the spot, he found that there was fire in a factory of scrap and the fire brigade was at the spot trying to control the fire and at about 9 P.M. the fire could be brought under control. On inquiry by the Investigating officer, he was informed that one boy name Sunil (deceased), who was working, was missing.

13. The burnt scrap was removed with the help of a JCB and the body of Sunil was recovered at about 1 A.M. On inquiry it was found that Sunil alongwith other labourers was working at the spot and suddenly the scrap material caught fire.

14. The charge-sheet also reiterates the above facts. It is stated that one of the workers stated that they were working in the plot of land adjoining the shop of the appellant and when they were working there, the scrap suddenly caught fire on account of which three of them ran outside but Sunil was not visible and there was a lot of smoke.

15. It is stated that when the fire brigade reached the spot, they tried to control the fire and subsequently the burnt body of Sunil was recovered from the spot.

16. As per the charge sheet, one of the workers has stated that the incident had happened on account of the negligence of the appellant and the workers had several times requested the appellant to provide fire safety measures but he did not pay any attention.

17. The contention of learned counsel, that the appellant is not liable as the fire had not taken place in his premises and had taken place in adjoining premises, does not further the case of the appellant because there is no dispute that the deceased was employed by the appellant on the said date. There is also no dispute that the scrap material on which labourers were working belonged to the appellant and was kept in an open plot of land adjoining the premises of the

appellant. As notice in the impugned order, appellant himself admitted the above facts in his statement before the commissioner.

18. The contention of learned counsel for the appellant that appellant may be permitted to lead evidence to disprove the allegation is not sustainable, in view of the fact that there are clear admissions made by the appellant in his written statement as well as in his statement to the Commissioner.

19. It is settled position of law that any evidence contrary to the pleadings, and/or in absence of pleadings cannot be permitted. Since there are clear admissions on the part of the appellant about the employment and the incident as well as the demise of the labour employed by him in the fire, I find no infirmity in the impugned order allowing the claim petition based on admissions.

20. There is no dispute with regard to the computation of compensation and as such the same also does not warrant any interference.

21. In view of the above, I do not find any merit in the appeal. The appeal is accordingly dismissed.

**SANJEEV SACHDEVA, J**

**MARCH 18, 2021**  
**NA**