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

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Judgment delivered on: 07.12.2021

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FAO 270/2021& CM43744-45/2021

LONGJIAN KEC (JV) THROUGH GM, PROJECTS

..... Appellant

versus

COMMISSIONER AND ANR

.....Respondents

Advocates who appeared in this case:

For the Petitioner:

Mr. Shiv Prakash Pandey, Advocate.

For the Respondent:

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant impugns award dated 04.08.2020, whereby compensation has been directed to be awarded to the legal heirs of the deceased workman. Appellant also impugns order dated 24.08.2020, whereby penalty, under Section 4(1)(3)(b) of the Employees Compensation Act, 1923, equivalent to 30% of the compensation awarded has been directed to be paid.

2. The deceased workman, who was then aged 29 years, was working in the fabrication yard. It is stated that the deceased along

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with co-workers went to the fabrication yard to shift the material from the fabrication yard to girder bed. Deceased felt dizzy and he was advised by the co-worker to sit on the ground. The deceased subsequently became unconscious and when he was shifted to the hospital, he was reported as brought dead.

3. The medical opinion with regard to the cause of death is reported as “shock as a result of ante-mortem coronary artery disease and the deceased has consumed alcohol prior to death”. The alcohol content is 19.0 mg/100 ml.

4. The deceased was aged 29 years and there is no material on record to show that he was suffering from any medical disorder. The cause of death reported is ante-mortem coronary artery disease.

5. It is an admitted position that deceased was working at the time when he had suffered heart attack and expired. The deceased was employed to shift material from fabrication yard to girder bed. Clearly, the death is attributable to his employment and has occurred in the course of his employment and accordingly the legal heirs are entitled to compensation.

6. The Commissioner has also noticed that the appellant had failed to produce the register of beneficiaries required to be maintained by the employer under Section 15 of the Building and Other Construction Workers (Regulation of Employment. And Conditions of Service)

Act, 1996

7. There is no challenge to the assessment of the quantum of death compensation. Further, since the compensation amount was not paid or tendered within one month from the date of accident and as noticed by the Commissioner not paid till the time of the passing of the award, which was exactly one month from the date of accident. The Commissioner thereafter set down the matter for appellant to show cause as to why penalty under Section 4(1) (3) (b) not imposed. On failure to show a just cause, Commissioner had imposed a penalty of 30% of the compensation awarded.

8. I find no infirmity in the award passed by the Commissioner in grant of compensation and imposition of penalty. I find no merit in the appeal. The appeal is accordingly dismissed.

SANJEEV SACHDEVA, J.

DECEMBER 07, 2021

NA