

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

+ FAO 83/2020, CM APPL. 6517/2020, CM APPL. 31749/2022, CM APPL. 31750/2022

Date of Decision 12/10/2022

IN THE MATTER OF:

SH. JASBEER SINGH

..... Appellant

Through: Mr. Sudhir Sharma, Advocate.

Versus

SMT. KISHORI MAHEY & ORS.

..... Respondents

Through: Mr. Pradeep Gaur, Advocate for
respondent No.3.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. By way of the present appeal filed under Section 30 of the Employees' Compensation Act, 1923 (hereinafter, referred to as the '*EC Act*'), the appellant/claimant seeks setting aside of the order dated 24.01.2018 passed by the learned Commissioner, Employees' Compensation, Delhi in Case No. CEC-I/SD/D/12/2017/83 *titled as* Sh. Jasbeer Singh v. Smt. Kishori Mahey & Anr.

2. Mr. Sudhir Sharma, learned counsel for the appellant, submits that initially an application under Section 22 of the Act seeking compensation came to be filed on behalf of the appellant in South District, Delhi, which

was later transferred to East District, Delhi on 15.12.2017. Subsequent thereto, an application was filed on behalf of the appellant on 17.01.2018 praying that the matter may be adjourned to the last week of February on the ground that he had moved an application before the Secretary-cum-Labour Commissioner seeking transfer of the case.

Learned counsel further submits that on 24.01.2018, *Smt. Rubina* (wife of the appellant) made a statement before the learned Commissioner that the appellant (her husband) was unable to walk and wanted to withdraw the case from that Court. Vide the impugned order, the claim petition was dismissed. It is prayed that the matter may be remanded back for consideration on merits.

3. I have heard learned counsels for the parties and gone through the entire case record.

4. A perusal of the record would show that in the claim petition, it was stated that the appellant was employed as a driver with *Late Sh. Bharat Mahey* i.e., deceased father of respondent Nos. 1 and 2, on vehicle No. DL-3CS-9059 at a salary of Rs.10,000/- per month. On 25.08.2016, while he was on duty, he met with an accident and sustained injuries. It was further stated that *due to sudden fall, the brain of the applicant* (appellant) *had an ill-effect due to work related stress and because of that his body become dysfunctional*. It was claimed that post-accident, the appellant had become 100% disabled for the purpose of employment as a driver, and that the aforesaid vehicle was insured with respondent No.3.

5. A reading of the proceedings recorded before the learned Commissioner would show that issues were framed and the claimant filed his evidence by way of affidavit. On 24.01.2018, a proxy counsel

appeared on behalf of the appellant before the learned Commissioner, when it was observed that an application had also been filed by the claimant before the Secretary-cum-Labour Commissioner seeking transfer of the case, which was pending consideration.

6. On 24.01.2018, learned Commissioner noted the facts of the case and the issues that were framed, however, dismissed the claim petition without assigning any reasons and by merely observing that “*the injury alleged in claim petition in the facts and circumstances of the claim petition cannot be said to be arisen due to stress and thus arising out of employment.*”

7. Time and again, the Supreme Court has taken the view that reasons form the heart and soul of every order/pronouncement, and as such, the importance of citing reasons in an order cannot be gainsaid. To elucidate, in Secretary and Curator, Victoria Memorial Hall v. Howrah Ganatantrik Nagrik Samity and Others reported as (2010) 3 SCC 732, it was opined as follows:-

"40. It is a settled legal proposition that not only administrative but also a judicial order must be supported by reasons, recorded in it. Thus, while deciding an issue, the court is bound to give reasons for its conclusion. It is the duty and obligation on the part of the court to record reasons while disposing of the case. The hallmark of an order and exercise of judicial power by a judicial forum is to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of sound administration of justice-delivery system, to make known that there had been proper and due application of mind to the issue before the court and also as an essential requisite of the principles of natural justice. "The giving of reasons for a decision is an essential attribute of judicial and judicious disposal of a matter before courts, and which is the only indication to know about the manner and quality of exercise

undertaken, as also the fact that the court concerned had really applied its mind." (Vide State of Orissa v. Dhaniram Luhar and State of Rajasthan v. Sohan Lal)

41. Reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, it becomes lifeless. Reasons substitute subjectivity by objectivity. Absence of reasons renders the order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. (Vide Raj Kishore Jha v. State of Bihar, SCC p. 527, para 19; Vishnu Dev Sharma v. State of U.P., SAIL v. STO, State of Uttaranchal v. Sunil Kumar Singh Negi; U.P. SRTC v. Jagdish Prasad Gupta, Ram Phal v. State of Haryana, Mohd. Yusuf v. Faij Mohammad and State of H.P. v. Sada Ram.)

42. Thus, it is evident that the recording of reasons is principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected may know, as to why his application has been rejected."

8. Further, there is no gainsaying that labour statutes such as the EC Act constitute 'beneficial legislation' for the welfare of workmen and should be liberally construed in their favour. In this regard, the Supreme Court in Jaya Biswal and Others v. Branch Manager, IFFCO Tokio General Insurance Company Limited and Another reported as (2016) 11 SCC 201 has opined thus:-

"20. The EC Act is a welfare legislation enacted to secure compensation to the poor workmen who suffer from injuries at their place of work. This becomes clear from a perusal of the preamble of the Act which reads as under:

“An Act to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident.”

This further becomes clear from a perusal of the Statement of Objects and Reasons, which reads as under:

“... The growing complexity of industry in this country, with the increasing use of machinery and consequent danger to workmen, along with the comparative poverty of the workmen themselves, renders it advisable that they should be protected, as far as possible, from hardship arising from accidents.

An additional advantage of legislation of this type is that, by increasing the importance for the employer of adequate safety devices, it reduces the number of accidents to workmen in a manner that cannot be achieved by official inspection. Further, the encouragement given to employers to provide adequate medical treatment for their workmen should mitigate the effects to such accidents as do occur. The benefits so conferred on the workman added to the increased sense of security which he will enjoy, should render industrial life more attractive and thus increase the available supply of labour. At the same time, a corresponding increase in the efficiency of the average workman may be expected.”
(emphasis supplied)”

9. Learned counsel for the appellant, on instructions, submits that the appellant undertakes not to seek transfer of the case and would appear before the learned Commissioner, Employees' Compensation, South District.

10. Keeping in view the facts and circumstances of the case, this Court is of the view that ends of justice would be met if the matter is remanded

back to the Court of learned Commissioner, Employees' Compensation, South District for consideration on merits.

11. Accordingly, the order dated 24.01.2018 is set aside and the matter is directed to be listed before the learned Commissioner, Employees' Compensation, South District on 02.11.2022.

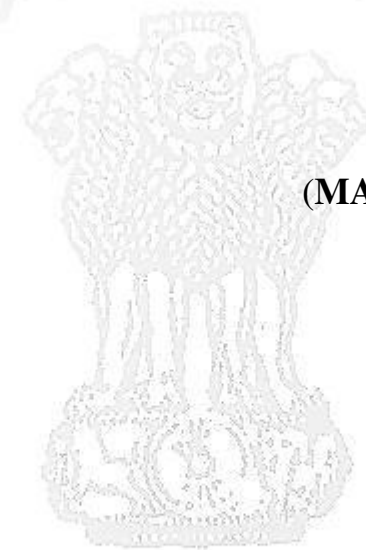
12. The appeal, alongwith the pending applications, is disposed of in the above terms.

13. A copy of this order be communicated to the learned Commissioner, Employees' Compensation, South District for information.

(MANOJ KUMAR OHRI)
JUDGE

OCTOBER 12, 2022

ga



नित्यमेव जयते