



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

+ **FAO 134/2018 and CM APPL. 14373/2018**

Date of Decision: 06.09.2022

IN THE MATTER OF:

HAKIM SINGH

..... Appellant

Through: Mr. R.K. Nain and Mr. Daksh Nain,
Advocates.

versus

M/S NEW KANPUR AGRA TRASPORT COMPANY &
ANR.

..... Respondents

Through: Mr. Ishpreet Singh, Advocate for
respondent No.1

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. The present appeal has been instituted under Section 30 of the Employees' Compensation Act, 1923 (hereinafter, referred to as the 'Act') on behalf of the appellant/claimant assailing the order dated 13.09.2017 passed by the learned Commissioner, Employees' Compensation Act, District-West, Karampura, Delhi in Case No. WC/31/WD/17.

2. In his petition(s) filed before the learned Commissioner for compensation under Section 22 of the Act, the appellant claimed that he was



employed as a driver with respondent No.1 on vehicle bearing No. UP-78-CN-8951 (Truck) and on 01.09.2015, he met with an accident while driving the truck during the course of employment.

It was the case of the appellant that the accident had occurred on account of poor visibility near Barabanki, UP, as while he was driving over a flyover, construction dust in the air caused his vehicle to ram into another vehicle which was stranded on the bridge without any caution/signal or indicator etc.

It was further claimed that as he had received grievous injuries on both his legs due to the accident, for which he also remained hospitalized, the appellant had become 100% disabled for the purpose of employment as a driver. It was also claimed that he was getting wages at the rate of Rs.10,000/- per month plus Rs.200/- as food allowance.

3. The appellant preferred his first claim petition before the concerned Commissioner on 12.08.2016. However, on 07.03.2017, he submitted an application for withdrawal of the claim petition. The claim petition was permitted to be withdrawn by the concerned Commissioner on 07.03.2017, but “*no liberty was granted*”. Later, on 27.03.2017, the appellant preferred a second claim application before the Commissioner, Employees’ Compensation, West District, Karampura, New Delhi by way of ECA No.31/17, which came to be dismissed vide the impugned order on the ground that while granting permission to withdraw the earlier claim petition, the concerned Commissioner had not granted liberty to the appellant.

4. Learned counsel for the appellant has assailed the impugned order by contending that the order is illegal, as the same deprived the appellant of his statutory right to seek compensation.



5. Learned counsel for respondent No.1, on the other hand, has supported the impugned order. Record of the proceedings before this Court would show that notice to respondent No.2 stands served.

6. I have heard learned counsels for the parties.

7. A perusal of the case records would show that the appellant's first compensation application filed before the Commissioner, Employees' Compensation, Distt. East/North-East, Vishkarma Nagar, Delhi was permitted to be withdrawn on account of an application filed on his behalf. In the withdrawal application, it was averred by the appellant that the compensation application is being withdrawn on account of technical reasons as also his inconvenience. This Court is constrained to note that though the appellant's first claim application was permitted to be withdrawn, "*no liberty was granted*".

8. The appellant's second claim application was filed before the Commissioner, Employees' Compensation, West District, Karampura, New Delhi and the same was also dismissed on a short ground by way of a cryptic order holding that at the time of earlier withdrawal, no liberty was granted. This Court is constrained to note that neither the appellant's application was considered on merits nor any reason was given to deny liberty.

9. 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.”

10. Besides, labour statutes, such as the Act, constitute ‘*beneficial legislation*’, enacted for the welfare of employees/workmen [Refer: New India Assurance Co. Ltd. v. Puran Lal and Others reported as **2021 SCC OnLine Del 3483**]. In this regard, a Co-ordinate Bench of this Court in Shri. Krishan v. Jasoda Devi and Ors. reported as **2017 SCC OnLine Del 11137** has opined thus:-

“43.1. The Employees' Compensation Act, 1923 is a piece of social beneficial legislation and its provisions have to be interpreted in a manner so as not to deprive the employees of the benefit of the legislation.

43.2. The object for enacting the Employees' Compensation Act even as early as 1923 was to ameliorate the hardship of economically poor employees who were exposed to risks in work, or occupational hazards by providing a cheaper and quicker machinery for compensating them with pecuniary benefits.”

11. Notably, facts of the present case are squarely covered by the decision of a Co-ordinate Bench of this Court in Upender Tiwari v. M/s National Insurance Co Ltd. & Anr., **FAO 345/2018**, wherein while setting aside the impugned order and reviving the compensation application, it was held as under:-

“...It is noted that in the proceedings arising out of the case of Abdhesh Sharma (supra), an explanation had been called for as to why a cryptic and non-speaking order had been passed, it not indicating as to what was the “liberty” that had been sought or as to why it had been not granted. A counsel had appeared before this court in the case of Abdhesh Sharma (supra) on behalf of the Commissioner, Employees' Compensation and, on her request the said



matter was remitted for fresh order to be passed, it having been assured on behalf of the Commissioner, Employees' Compensation that the fresh order would indicate the reasons and not be a non-speaking order."

12. In view of the foregoing decisions, this Court deems it apposite to allow the present appeal. Accordingly, the impugned order dated 13.09.2017 is set aside and the second claim application of the appellant is revived.

13. Let the second claim application of the appellant be listed before the concerned Commissioner, Employees' Compensation on 10.10.2022 to be decided in accordance with law. The parties, who are present in Court, are directed to appear before the concerned Commissioner on the said date.

14. With the aforesaid observations, the appeal is disposed of alongwith the pending application.

15. The Registry shall communicate a copy of this order to the concerned Commissioner, Employees' Compensation.

(MANOJ KUMAR OHRI)
JUDGE

SEPTEMBER 06, 2022

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