

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**
FAO 360/2018, CM APPL. 31003/2018, CM APPL. 5343/2021 and
CM.APPL. 5344/2021

Date of Decision: 27.10.2022

IN THE MATTER OF:

SH. LAKHAN SINGH

..... Appellant

Through: Mr. R.K. Nain, Advocate

versus

M/S TATA AIG GENERAL INSURANCE CO. LTD.&ANR.

..... Respondents

Through: Ms. Vandana Kahlon and Mr. Rudra
Kahlon, Advocates

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 'Act'), the appellant/claimant has assailed the order dated 22.02.2017 passed by the learned Commissioner, Employees' Compensation, District East, Vishwakarma Nagar, Jhilmil Colony, Delhi in Case No.CEC/NW/I/73/16 titled as Sh. Lakhan Singh v. Vivek Yadav & Anr.

2. In his claim application filed before the learned Commissioner, District North-West, Nimri Colony, Ashok Vihar, Delhi for compensation under Section 22 of the Act on 06.07.2017, the appellant claimed that he

was employed as a driver with respondent No.2 (respondent No.1 therein) on vehicle bearing No. UP-75M-6919 at a salary of Rs.8,500/- per month and Rs.200/- per day as food allowance.

It was the case of the appellant that on 08.11.2015, when the appellant was driving the vehicle on a business trip from *Agra* onward and had reached near *JogaMor, Bewar, District Mainpuri, Uttar Pradesh* at about 9:00 p.m., a bus coming from the opposite direction collided with the said vehicle. It was stated that the appellant had sustained grievous injuries all over his body, especially on his right leg. The appellant was taken to *G.S.V.M. Medical College & Associated Hospitals, Kanpur* where he received treatment and was referred to another hospital. An FIR bearing No. 318/2015 under Sections 279/337/338/304A/427 also came to be registered at P.S. Bewar, District Manipuri, Uttar Pradesh.

It was further claimed that at the time of accident, the vehicle was owned by respondent No.2 and insured with respondent No.1 (respondent No.2 therein). It was stated that an additional premium was charged by respondent No.1 from respondent No.2 under the Act. It was averred that post-accident, the appellant had become 100% disabled for the purpose of his employment as a driver and that his earning capacity has been totally reduced.

3. During the pendency of proceedings before the Commissioner, an application came to be filed on behalf of the appellant seeking withdrawal of the claim application. Vide the impugned order, claim application was permitted to be withdrawn but with '*no liberty*'.

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. Learned counsel for the respondents, on the other hand, has supported the impugned order.

5. I have heard learned counsels for the parties and gone through the entire material placed on record.

6. A perusal of the case records show that the appellant's claim petition filed before the learned Commissioner was permitted to be withdrawn on account of an application filed on his behalf. In the withdrawal application, it was averred that the claim petition is being withdrawn on account of technical reason as also the appellant intends to file a fresh one. This Court is constrained to note that neither the appellant's application was considered on merits nor any reasons was given to deny liberty.

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. 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."

9. 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."

10. Lately, this Court in Hakim Singh v. M/s New Kanpur Agra Transport Company &Anr., **FAO 134/2018** in like facts and circumstances while setting aside the impugned order therein, revived the second claim application of the appellant and directed the same to be decided in accordance with law.

11. In view of the foregoing decisions, this Court deems it apposite

to allow the present appeal. Accordingly, the impugned order dated 22.02.2017 is set aside and the claim application of the appellant is revived.

12. Let the claim application of the appellant be listed before the concerned Commissioner, Employees' Compensation on 14.11.2022 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.

13. With the aforesaid observations, the appeal is disposed of along with the pending applications.

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

(MANOJ KUMAR OHRI)

JUDGE

OCTOBER 27, 2022

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