

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

Date of Decision: 07.02.2023

FAO 335/2018 and CM APPL. 17719/2020

IN THE MATTER OF:

SHOKEEN

..... Appellant

Through: Mr. Daksh Nain, Advocate

versus

M/S ORIENTAL INSURANCE CO LTD & ANR

..... Respondents

Through: Mr. Nar Singh and Mr. S.P. Jain, Advocates
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, the 'Act') on behalf of the appellant/claimant assailing the order dated 08.09.2017 passed by the learned Commissioner, Employees' Compensation (hereinafter, 'CEC'), District-East/North-East, Delhi in Case No.WC/25/WD/17.

2. In his petition filed before CEC, District West for compensation under Section 22 of the Act, the appellant claimed that he was employed as a cleaner with respondent No.2 on vehicle bearing No. RJ-14-GB-2101 (Truck). It was stated that he was getting wages at the rate of Rs.4,000/- per month plus Rs.150/- as food allowance.

On 27.08.2009, he met with an accident while tightening a rope over the truck during the course of employment. The accident had occurred as the rope the appellant was tying snapped and he fell from a height. Reportedly, the

appellant received grievous injuries due to the accident, for which he also remained hospitalized. It was claimed that he had become 100% disabled for the purpose of employment as a cleaner.

3. The appellant preferred his claim petition before CEC, District-West on 07.03.2017, whereafter the case was transferred to CEC, District-East. On 08.09.2017, the appellant submitted an application for withdrawal of the claim petition with liberty to file afresh. Though the claim application was permitted to be withdrawn by the learned Commissioner on 08.09.2017 itself, no liberty was given to file a fresh claim.

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.

6. I have heard learned counsels for the parties and perused the material on record.

7. A perusal of the case records would show that the appellant's compensation application filed before CEC, District West was permitted to be withdrawn on account of an application filed on his behalf. In the withdrawal application filed before CEC, District East, it was prayed that the appellant may be allowed to withdraw in order to pursue a fresh claim in terms of Rule 24(2) of Workmen's Compensation Rules, 1924. This Court is constrained to note that though the appellant's claim petition was permitted to be withdrawn, no liberty was given. Neither the appellant's claim petition was considered on merits nor any reason was given to deny liberty.

8. 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.”

9. 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.”

10. In view of the foregoing decisions, this Court deems it apposite to allow the present appeal. Accordingly, the impugned order dated 08.09.2017 is set aside and the claim petition of the appellant is revived.

11. Let the claim petition of the appellant be listed before the concerned CEC, District East on 27.03.2023 to be decided on merits in accordance with law. The parties, who are present in Court, are directed to appear before the learned Commissioner on the said date.

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

13. The Registry shall communicate a copy of this judgment to the concerned CEC, District East, Delhi.

(MANOJ KUMAR OHRI)
JUDGE

FEBRUARY 07, 2023

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