



2025:DHC:9901



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

% *Judgment reserved on: 10th November, 2025*
Judgment pronounced on: 13th November, 2025

+ W.P.(C) 6733/2018 & CM APPL. 25613/2018

MUKESH

.....Petitioner

Through: Mr. Prashant Kumar Mittal,
Advocate.

versus

SACHIN

.....Respondent

Through: Mr. Prem Kumar, Advocate for R-1
and Mr. K.P. Mavi, Advocate for R-2
along with Mr. Arvind Kumar Bansal,
SSO, ESIC.

CORAM:
HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

J U D G M E N T

CHANDRASEKHARAN SUDHA, J.

1. The present writ petition is directed against order dated 24.10.2017 (Annexure P-1) passed by the Commissioner, Employees' Compensation, District North-West, GNCTD in Case No. WC1/100/NW/16/622 under the Employees' Compensation Act, 1923 (the EC Act), whereby compensation of ₹7,64,506/-



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with interest @12% p.a. from 26.09.2016 was awarded to respondent no.1(claimant). The petitioner herein (management) has also been directed to show cause as to why penalty under Section 4A(3)(b) of the Act should not be imposed for failure to deposit the compensation within one month from the date it became due.

2. The brief facts of the case are as follows-respondent no.1/ claimant, aged 18 years was employed in the petitioner's factory unit. On 19.04.2016, while operating a moulding machine, it malfunctioned, as a result of which his left hand was crushed, resulting in an amputation below the wrist.

2.1 The claimant/respondent was initially taken to the ESI Hospital and later referred to Safdarjung Hospital. He subsequently underwent further surgery in his native village at Hi-Tech Ortho & Trauma Centre, Laheriasarai, Bihar. The documents placed on record before the Commissioner included FIR No.



0337/2016, photographs, medical records, a disability certificate reflecting 60% permanent disability of his left hand, and a legal notice dated 20.05.2016 issued under Section 10 of the Act.

2.2 The petitioner was proceeded *ex parte* as he neither appeared before the Commissioner, nor filed any written statement. The testimony of respondent no.1 remained unrebutted. Based on the age of the claimant and in view of S.O. 1258(E) dated 31.05.2010, ₹8,000/- was taken as the notional monthly wage. Applying the multiplier of 226.38 and taking 60% as the disability percentage, compensation of ₹6,51,974/- with additional interest of ₹1,12,532/- from 19.04.2016 to 25.09.2017, totaling ₹7,64,506/- was awarded.

3. The petitioner has approached this Court seeking to quash the impugned order primarily on the ground that respondent no.1/claimant is covered under the Employees' State Insurance Act, 1948 (the ESI Act), as any compensation for the injuries or



disability sustained by the respondent no.1(claimant) is payable by the ESI department and that the claim filed by respondent no.1 before the commission under the EC Act is barred by s.53 of the ESI Act. It is also pointed out that order has been passed by the authority concerned under the ESI Act assessing the disability of respondent no.1/claimant and awarding compensation to him. This fact was admitted by respondent no.2 which has been recorded in the order dated 26.08.2025 of this Court, the relevant portion of which reads thus:

“3. The learned counsel for Respondent No. 2 submits that he has filed a copy of the Order dated 15.09.2023 passed by the Assistant Director, ESIC wherein, the permanent disability of the Workmen/Respondent No.1 was assessed as 60% and the permanent disability benefit of Rs. 16,020/- per day with effect from 16.06.2016 was also assessed which is being disbursed to Workmen/Respondent No.1 as per the ledger sheet produced along with this order.

4. It is further stated that as per the ledger sheet, Respondent No.1/Workmen has been paid the allowances till 20.03.2025 starting from 20.04.2016.

5. He also submits that since the liability of payment was duly assessed and the benefit has already been paid to the



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workmen by ESIC, the present writ petition is liable to be disposed of, as the present writ petition is only filed by the petitioner with prayer to issue a writ in the nature of certiorari or any other writ, order or direction for quashing and setting aside the Order dated 24.10.2017 passed by the Court of Commissioner, Employees' Compensation, Govt. of NCT, Jhilmil Colony, Delhi, being illegal and bad in law against the provisions of ESIC Act and dismiss the petition of the respondent filed under Section 12 of the Workman Compensation Act being not maintainable.

6. It is stated by the learned counsel for the petitioner as well as for Respondent No.2 that in view of the compensation already awarded by ESIC, the present writ petition deserves to be allowed.

7. Heard.

8. I have perused the Order dated 15.09.2023, wherein it is mentioned in para 4(b) of the said order that as this assessment is not final, a review will be done in this regard. Para 4(b) has been reproduced below:

“As this assessment is not final, a review will be done in this regard under Section 54-A of the Employees State Insurance Act, 1948 and the place, date and time of the Medical Board where you will be referred again will be informed to you later.”

9. Therefore, in the light of this, before passing any order, I deem it appropriate to hear the Workman/Respondent No.1.

10. Issue Court notice to Respondent No.1/workman as well as to his counsel.



11. List on 10th November, 2025.”

4. When the matter was taken up on 10.11.2025, it was submitted on behalf of respondent no.1/claimant that the compensation amount has been received by him.

5. In light of section 53 of the ESI Act, the Commissioner could not have passed the impugned order. Hence, the petitioner is entitled to the prayer sought for quashing the impugned order.

6. In the result, the writ petition is allowed and the impugned order shall stand quashed.

7. Application(s), if any pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

NOVEMBER 13, 2025/rs/sn