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

% ***Judgment Reserved on: 09.12.2025***
Judgment pronounced on: 12.12.2025

\+ FAO 490/2018 and CM APPL. 43648/2018

DELHI STATE CIVIL SUPPLY CORPORATION LTD .....Appellant

Through: Mr. Yasheshvi Vashishtha and Mr. Gurpreet Singh, Advocates.

versus

RITA RANI & ORS .....Respondents

Through: Mr. Hari Kishan, Advocate for respondents no. 2 to 6.

CORAM:
HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. This appeal under Section 30 of the Employee's Compensation Act, 1923 (The EC Act) has been filed by the respondent in the matter titled Smt. Rita Rani & Ors. vs. The Chairman, M/s Delhi State Civil Supply Corporation Ltd., bearing Ref. No. CECD/ED/06/2017/2136 on the file of the Commissioner, Employees Compensation (District North-East),

Labour Department, Government of NCT of Delhi, Vishwakarma Nagar, Jhilmil Colony, Delhi–110095, aggrieved by the order dated 29.06.2018 wherein the claimants, being the family of the deceased have been held entitled to compensation on account of the death of Sh. Suresh Kumar on 09.05.2015 arising out of and in the course of his employment with the respondent.

2. Unless otherwise specifically stated, the parties hereinafter shall be referred to as they were described in the original proceedings.

3. The facts pertaining to the present case as follows: Suresh Kumar, was employed as Assistant Manager at a Government Wine Shop operated by the respondent, and that his last drawn wages was approximately ₹ 45,000/- per month. On 09.05.2015, at about 10.00 p.m., after the shop was closed and when cash was being counted, 3 to 4 individuals arrived at the premises and demanded a bottle of liquor. When Suresh Kumar refused to accede to their demand owing to the closure of sales, the said

individuals became agitated and threatened him with dire consequences.

3.1 At around 11.00 p.m., Suresh Kumar left the shop and was proceeding towards his residence at, Shahdara, Delhi–110032, riding on a scooter, and carrying with him a bag containing the cash collected from liquor sales. When Suresh Kumar reached Welcome Flyover on G.T. Road near Shyam Lal College, he was intercepted by 3 to 4 individuals who had been following him. The assailants opened fire, causing him to fall from his scooter and sustain fatal injuries. The said individuals thereafter snatched the bag containing cash and fled from the scene after committing the offence.

3.2 Information regarding the incident was recorded at P.S. Welcome vide DD No. 77B, pursuant to which Sub-Inspector Ombir along with Constable Narendra proceeded to the location for enquiry. The deceased was removed to GTB Hospital, where he was declared "brought dead" by the attending doctor.

3.3 A post-mortem examination, vide No. 582/15, was conducted at UCMS and GTB Hospital, Delhi. Subsequently, Crime No. 255 dated 10.05.2015 alleging commission of offences under Section 302 IPC and Sections 25 and 27 of the Arms Act, 1959, was registered at Police Station Welcome, North-East Delhi.

3.4 Pursuant to this, the claim was filed for directing the respondent to pay compensation for employment-related death, along with interest and penalty, in accordance with the EC Act.

3.5 The respondent contended that the claim petition is not maintainable as the claimants failed to furnish any proof establishing themselves as the legal heirs of the deceased, and that claimant Nos. 2, 3, and 5 had never made any representation before the Corporation. It was asserted that although the deceased was an employee, his death did not occur in the course of employment. The respondent relied on the FIR and the police investigation, stating that the facts narrated by the claimants could not be verified, were afterthoughts, and were unsupported by the investigation record. It was specifically denied that the deceased was authorised to carry cash or that he had taken any cash from the shop on the date of the incident, as the cash was found to be lying in the shop chest as usual.

3.6 The respondent further disputed the claimants' assertions regarding wages, stating that the deceased's actual pay was as per official records, and denied the occurrence of any incident at the liquor shop as alleged. It was also contended that the investigation had identified no accused persons and did not corroborate the claimants' version, and therefore no nexus existed between employment and the death. The respondent also pointed out that the grievance raised earlier by the first claimant before the Public Grievance Commission had already been considered and rejected, and the present claim amounted to re-agitating decided issues.

3.7 The respondent denied liability for the compensation amount of ₹ 15,00,000/- or interest or penalty claimed, terming the amounts arbitrary and without basis. It was submitted that the family had already received whatever amounts were due, and no further liability arose. On these grounds, the respondent prayed that the claim petition be dismissed as not maintainable.

3.8 On completion of pleadings, necessary issues were framed. The parties went to trial on the basis of the aforesaid pleadings. The claimants filed their affidavits in lieu of chief examination, i.e., PW-1/A (Rita Rani) and PW-2/A (Shita Ram), along with supporting documents marked as Exhibits PW1/1 to PW1/5. The respondent filed their affidavit marked as Exhibit MW1/A. Both the claimants' witnesses and the respondent's witness were duly cross-examined.

3.9 Consequently, summons was issued to the Investigating Officer, Police Station Welcome for filing the Employees' Accident Report (EAR), as well as to Shri Dina Nath Tiwari, Junior Assistant, D.S.C. Ltd., Wine Shop at Usmanpur, Delhi, pursuant to applications moved by the claimants. In compliance, the Investigating Officer filed his reply detailing the circumstances of the incident and explaining the reasons for the inability to submit an EAR.

3.10 After hearing both sides and perusing the documents produced by both the sides, the Commissioner concluded that the respondent has admitted the death of Suresh Kumar during the course of employment *vide* letter Exhibit PW1/4, being the communication from the respondent department to the Deputy Secretary (Services), GNCT of Delhi, wherein it has been stated that 53 requests for appointment on compassionate grounds have been received from families of deceased employees, including two cases where officials died of shooting by unknown assailants while returning home after performing official duties at liquor vend namely, Sh. Sriniwas Monairiya, Jr. Assistant, who died on 04.11.2009, and Sh. Suresh Kumar, Assistant Manager, who died on 09.05.2015. Resultantly, it was held that the deceased died due to the accidental injuries sustained by him out of his employment under the respondent, and, accordingly, the claimants were held entitled to compensation of ₹6,77,760/- plus interest @ 12% w.e.f. 09.05.2015.

4. Aggrieved by the aforesaid decision, the respondents have preferred the present appeal, wherein they challenge the validity of the notional extension applied in favor of the deceased. It was urged that the incident occurred at around 11:30 p.m., much later than the closing time of the shop, and therefore the deceased was not in the course of employment while returning home when the attack took place, even though the employer–employee relationship was not disputed. The learned counsel for the respondent placed reliance on **Shakuntala Chandrakant Shreshti v. Prabhakar Maruti Garvali, (2007) 11 SCC 668**, and **Delhi Transport Corporation v. Sri Kishan, 2014 SCC OnLine Del 2742**, to contend that an incident occurring when the deceased was returning home much after the closing time of the shop cannot be construed as arising out of or in the course of employment, and therefore no compensation is legally sustainable. The respondent

further disputed the multiplier applied for computation of compensation, asserting that the deceased was 52 years of age at the time of his death.

5. The learned counsel for the claimant supported the findings of the Tribunal and made submissions in affirmation of the reasoning and conclusions reached in the impugned decision.

6. Both parties were heard and the materials on record perused.

7. Section 3(1) of EC Act reads:-

"3. Employer's liability for compensation.—

(1) If personal injury is caused to an employee by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Chapter:

XXXXX"

8. It is well settled that the foundational facts like the employer-employee relationship, the fact that the accident arose out of and in the course of the employment are matters to be proved by the claimant. As noticed earlier, in the case on hand, the

allegation is that on the fateful day, 3-4 customers came to the shop and demanded liquor after the shop was closed at 10:00 PM. The deceased refused to accede to their demand. The persons who came to the shop threatened the deceased that he would be dealt with suitably once he came out. Thereafter, the deceased after closing the shop while travelling back in his scooter was shot and murdered. To prove the case, his wife and father were examined as PW-1 and PW-2 respectively. It is true that they had not witnessed the incident. No eye witnesses were also examined to prove the incident. However, there are no materials to show that any person had actually witnessed either the altercation between the deceased and the said persons or the act of the deceased being shot at.

9. It was submitted by the learned counsel for the respondent that the incident as narrated by the claimants is highly improbable and the same cannot be believed. I do not find anything improbable in the events narrated by the claimants in the claim

petition. It is well known that instances of such nature have occurred earlier also, as in the case of **Manu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1**, where the bartender, a young girl, was shot at and killed because she refused to serve drinks to the accused after the bar had been closed. Therefore, there is nothing improbable in the incident narrated by the claimant.

10. Further, merely because the investigation conducted by the police was unsuccessful in finding out the assailants is no ground to disbelieve the case of altercation that took place between the deceased and the persons who were alleged to have come to the shop demanding liquor. A whole reading of the testimony of PW-1 and PW-2 does not raise any doubts and I find no reason to disbelieve their testimony. This is especially to in the light of Exh. PW-1/4. Therefore, the Commissioner was right in holding that the accident or death of the deceased arose out of and in the course of his employment.

11. It was further submitted that in case the Court was not

inclined to accept the arguments of the respondent, it needs to be noticed that the multiplier that has been applied by the Commissioner is incorrect. The multiplier that is applicable is 146.20 as the deceased was 52 years at the time of his death. Therefore, the Commissioner applying the multiplier as 169.42 taking his age as 45 is incorrect and the same needs to be interfered with.

12. Annexure P-7 shows the date of birth of the deceased as 26.01.1963. The incident took place on 09.05.2015. Therefore, the deceased was 52 years on the date of the incident. Hence, the multiplier to be applied will be 146.20 and not 169.42 as applied by the Commissioner. The impugned Award shall stand modified to the said extent.

13. There is yet another contention raised that compensation amount has already been paid to the claimants. It appears that the amounts due to the deceased at the time of his death were released to the claimants and not any compensation amount.

14. In the result, the appeal is partly allowed and the impugned Award is modified to the extent of correcting the multiplier to be applied as 146.20.

CHANDRASEKHARAN SUDHA
(JUDGE)

DECEMBER 12, 2025/ABP