

(2019) 07 DEL CK 0447

In the Delhi High Court

Case No : Civil Writ Petition No. 3608 Of 2019, Civil Miscellaneous Application
No. 16541 Of 2019

Ankit Gupta

APPELLANT

Vs

Rajesh And Ors

RESPONDENT

Date of Decision : 25-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 287, 288, 304A, 337
Employees Compensation Act, 1923 — Section 10A

Citation : (2019) 07 DEL CK 0447

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : Puneet Maheshwari, Dharmender Sharma, Naman Jain, Sanjoy Ghose, B.S. Gulia, P.S. Moti Nagar, Kaushik Sadhukan, A.K. Jaiswal, Anuj Aggarwal

Final Decision : Disposed of

Judgement

J.R. Midha, J

1. The petitioner has challenged the order dated 18th January, 2019 whereby the Commissioner, Employees' Compensation directed the petitioner to deposit Rs.45,74,240/- as compensation in respect of death of seven persons in the incident dated 03rd January, 2019.

2. The petitioner has challenged the impugned order on the ground that the same has been passed without issuing any show cause notice or affording an opportunity to the petitioner. According to the petitioner, no enquiry whatsoever has been conducted by the Commissioner, Employees' Compensation before passing the impugned order. The petitioner also disputes the relationship of employment with the persons who died in the alleged accident.

3. Vide order dated 12th April, 2019, this Court directed the Investigating Officer of FIR No.5/2019, P.S. Moti Nagar to investigate the matter and submit a report

as to whether the persons, who died in the incident dated 03rd January, 2019, were the employees of the petitioner. The SHO, P.S. Moti Nagar has filed the status report according to which seven persons died and nine persons, including the petitioner, were injured in the incident dated 03rd January, 2019 in respect of which FIR No.5/2019 under Sections 287/288/337/304A IPC was registered by the Police. The Investigating Officer, B.S. Gulia present in Court submits that the investigation has concluded and the chargesheet is being filed by the Police. It is further submitted that four injured persons namely, Gangesh, Munna, Manju and Ashok and three deceased persons namely, Ajay, Ajay Bahadur and Sanjay Prasad were the employees of the petitioner and the Employees Accident Report in the prescribed format along with the documents have been filed with the Commissioner, Employees' Compensation.

4. Learned counsel for Govt. of NCT of Delhi as well as learned amicus curiae submit that the Commissioner, Employees' Compensation be directed to treat the Employees Accident Reports as an information under Section 10A of Employee's Compensation Act and to conduct an enquiry into the matter in accordance with law.

5. Learned counsel for the petitioner submits that the impugned orders dated 04th and 09th January, 2019 be set aside. Learned counsel for the petitioner has no objection to the Employees Accident Reports being treated as an information under Section 10A of Employee's Compensation Act and the same be adjudicated in accordance with law.

6. The writ petition is allowed and the impugned orders dated 04th and 9th January, 2019 are set aside. The Commissioner, Employees' Compensation is directed to treat the Employees Accident Reports as an application for compensation and the same be adjudicated in accordance with law.

7. The petitioner shall appear before the Commissioner, Employees'

8. The Investigating Officer shall intimate the next date of hearing to the claimants and shall ensure their appearance before the Commissioner,

9. Learned counsel for the petitioner submits that he has received the copies of the Employees Accident Reports and he shall file the written statement along with all relevant documents relating to these cases within their power and possession before the Commissioner, Employees'

10. After filing the rejoinder by the claimants, the Commissioner, Employees' Compensation shall record the evidence of the claimants and thereafter, afford an opportunity to lead evidence to the petitioner.

11. Learned counsel for the petitioner submits that he shall not take any unnecessary adjournment before the Commissioner, Employees' Compensation.

12. The Commissioner, Employees' Compensation shall expedite the adjudication of these cases and endeavour to decide the same within a period of three months

from 27th August, 2019.

13. The pending application is disposed of.

14. Copy of this judgment be sent to the Commissioner, Employees'

15. Copy of this judgment be given dasti to counsel for the parties as well as learned amicus curiae under the signature of the Court Master.