2026:DHC:8045

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

% Date of Decision: 17.09.2026

\# **CNR No. DLHC010247872026**

\+ **FAO 175/2026**

VARUN JUNEJA .....Appellant

Through: Mr. Sachin Dev Sharma with Mr. Giriraj Prasad, Ms. Heena, Mr. Anurag, Mr. Kapil Pandey, Advocates.

versus

SONIYA .....Respondent

Through: Ms. Neelampreet Kaur, Amicus Curiae and Mr. Kanishk Ahuja, Adv.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

CM APPL.36539/2026 (condonation of delay in filing the appeal)

1. By way of the present application, the appellant/applicant is seeking condonation of delay of 224 days in filing the present application.

2. For the reasons stated in the application, the delay is condoned.

3. The present application is disposed of in the above terms.

FAO 175/2026

1. The present appeal filed under Section 30(1)(aa) of the Employee's Compensation Act, 1923 (hereinafter the "EC Act") has been preferred against the order dated 31.07.2025 passed by the learned Commissioner, Employee's Compensation, District West, *Delhi* in Case No. EC/WD/D/173/LAB/2022/1711. *Vide* the impugned order, the learned

Commissioner allowed the claim application and directed the respondents to pay compensation as well as penalty.

2. Pithily put, the claim application came to be filed by the claimant in the context of the death of his son, viz., *Prince Rathore* (hereinafter referred to as the "deceased"). It was claimed that the death had occurred out of and in the course of employment of the deceased, who was stated to have been working as a Factory Manager with the appellant for the past 25 years and whose last drawn salary was Rs.50,000/- per month. It was further claimed that the firm was earlier owned by one *Pawan Kumar Juneja* and, after his death in the year 2020, the business was looked after by his son i.e., the present appellant. The deceased used to commute every day for work. On 19.11.2021, when the deceased left home and reached office, he informed the claimant that, on account of an international fair, he would remain in the office for 4-5 days. The claimant further stated that on 22.11.2021, he received a phone call from the deceased stating that he would reach home the next day, i.e. 23.11.2021. However, on 23.11.2021, the claimant received a call from a colleague of the deceased that, on account of ill-health, the deceased was taken to *Sardar Vallabh Bhai Patel Hospital, West Patel Nagar, Delhi,* where he was declared brought dead.

On summons being issued, the appellant appeared and contested the application.

3. Ms. *Neelampreet Kaur,* learned *Amicus Curiae* appointed to represent the claimant, submits that though the appellant disputed the monthly salary claimed in the claim application, the employer-employee relationship was not disputed. It is stated that the claimant, besides

examining himself, also examined a co-worker of the deceased, namely *Sita Ram*. The said witness, during the police investigation, stated that the deceased was working with the respondent for 15-16 years as a 'Supervisor' and had been residing in the factory premises for the preceding 4-5 days prior to his death. Learned *Amicus* submits that in light of the testimony of the claimant, the statement of co-worker *Sita Ram*, and the evidence of Dr. *Vinod Kumar,* who conducted the post-mortem of the deceased, it has been established that the claimant's son had died out of and in the course of his employment.

Learned *Amicus* has further drawn the attention of the Court to the fact that, despite the appellant conceding that wages were being paid to the deceased @ Rs.18,000/- per month, the learned Commissioner erred in restricting the same to Rs.15,000/- by merely accepting that the same was the minimum wage notified by the Central Government. It is stated that once the employer itself admits to higher wages, the learned Commissioner ought not to have considered a lesser amount.

4. Learned counsel for the appellant submits that he is not challenging the award on the aspect of compensation and restricts the challenge only to the imposition of penalty. It is contended that the learned Commissioner has imposed the maximum penalty as envisaged under the EC Act. He further submits that the appellant has deposited a sum of Rs.16.25 lakhs before the learned Commissioner and has no objection if the same is released to the claimant.

At this stage, learned *Amicus* has pointed out that the appellant had deposited the awarded amount only after the proceedings were initiated by the claimant for recovery of the awarded amount.

5. Coming to the first submission of the learned *Amicus* that the learned Commissioner erred in calculating the compensation, the stand of the appellant is noted in the impugned order, wherein it was claimed that the deceased was being paid Rs.18,000/- per month as Supervisor. However, the learned Commissioner, relying upon the Notification of the Central Government, restricted the monthly wages to Rs.15,000/-. Accordingly, the proposed computation, on the basis of monthly wages of Rs.18,000/-, is as under:

(i)	*Relevant factor laid down under schedule IV of the Act for 44 years of age*	*172.52*
(ii)	*50% of monthly wage restricted to Rs.18,000/- p.m:*	*9,000/-*
(iii)	*Amount of Compensation payable to the Dependents of deceased: 172.52 x 9,000/-*	*15,52,680/-*
(iv)	*Funeral expenses allowed u/s 4(A) of the Act:*	*5,000/-*
	***Total amount**:*	***15,57,680/-***

6. Accordingly, the claimant is held to be entitled to the revised compensation of Rs.15,57,680/-, including funeral expenses, from the appellant.

7. Coming now to the contention regarding the imposition of penalty, the appellant has contended that the learned Commissioner ought not to have imposed the maximum penalty envisaged under the EC Act.

8. Learned *Amicus*, on the other hand, has justified the imposition of maximum penalty by contending that, in spite of the death having occurred in the factory premises of the appellant, the appellant has not released any compensation. Further, the amounts stated to be deposited before the learned Commissioner were a consequence of the recovery proceedings that had to be initiated on behalf of the claimant. The

statutory scheme under the EC Act provides for compensation as well as imposition of penalty upon the employer failing to pay the compensation. The relevant provision, being Section 4A(3)(b) of the EC Act, reads as under:

> "***Section 4A. Compensation to be paid when due and penalty for default.***—
>
> *xxx xxx xxx*
>
> *(3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner shall-*
>
> *xxx xxx xxx*
>
> *(b) if, in his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent, of such amount by way of penalty:*
>
> *Provided that an order for the payment of penalty shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause why it should not be passed.*"

9. A perusal of the same would show that the learned Commissioner is empowered to award penalty up to 50% of the compensation amount. Notably, the incident is dated 23.11.2021. The death of the deceased, as noted above, took place on 23.11.2021. The demand notice was issued, which remained unanswered. More than three and a half years had elapsed by the time of passing of the impugned order and the learned Commissioner, consequently, imposed penalty @ 50% of the compensation amount. The amounts deposited were not voluntary, but were a consequence of recovery proceedings initiated against the appellant.

10. Accordingly, though the imposition of penalty to the extent of 50% is upheld. The penalty amount also stand revised to Rs.7,76,340/-.

11. Let the amount deposited with the learned Commissioner be released to the claimant, if not already done, towards the revised compensation.

12. At this stage, learned counsel for the appellant submits that the appellant be permitted to deposit the revised compensation and penalty along with the arrears in instalments. The same shall be paid within four months from today.

13. List the matter before the learned Commissioner on 24.09.2026, who shall ensure that the entire amount is paid to the claimant as expeditiously as possible.

14. Before parting with the matter, this Court appreciates the services rendered by the learned *Amicus Curiae*.

15. The present appeal, along with the pending application i.e. CM APPL.36538/2026, is disposed of in the aforesaid terms.

16. A copy of this order be communicated to the learned Commissioner concerned for necessary compliance.

DASTI.

MANOJ KUMAR OHRI
(JUDGE)

SEPTEMBER 17, 2026/pmc