



121 IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH  
CR-7569-2024(O&M)  
Date of order: 07.01.2025

M/s Hare Krishna Steels

.....Petitioner(s)

Vs.

Smt. Sadhna & Others

.....Respondent(s)

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Surinder Kumar Virk, Advocate  
for the petitioner.

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**Nidhi Gupta, J.**

Challenge in the present petition is to the order dated 29.04.2024 (Annexure P1) passed by the learned Commissioner, whereby the application of the petitioner for setting aside order dated 25.04.2022 (Annexure P2) and ex-parte Award dated 29.04.2022 (Annexure P3) passed by the learned Commissioner under Employee's Compensation Act, 1923, Circle-II, Panipat, is dismissed; **AND** for allowing the application of petitioner (Annexure P4) filed before the learned Commissioner.

2. Learned counsel for the petitioner submits that the impugned orders deserve to be set aside as the learned Commissioner has failed to appreciate that the petitioner was unable to appear on 25.04.2022 as inadvertently the counsel for the petitioner had noted down the wrong date in the case. It is argued that accordingly, the petitioner was wrongly proceeded against ex-parte; and therefore, in the interest of justice, the impugned ex-parte order dated 25.04.2022 (Annexure P2) and ex-parte



Award dated 29.04.2022 (Annexure P3), and the order dated 29.04.2024 (Annexure P1) passed by the learned Commissioner, be set aside.

3. No other argument is made on behalf of the petitioner.

4. I have heard learned counsel for the petitioner and perused the case file in great detail.

5. Brief facts of the case are that the claimants/respondents herein had filed a claim application under Section 4 of the Employee's Compensation Act (hereinafter referred to as "the Act") against the petitioner on the ground that the deceased namely Ashok Kumar/husband of respondent No.1 and father of respondents No.2 and 3, was working in the petitioner's shop/firm. On 18.08.2017, Ashok Kumar had suffered heart attack due to heavy work in the shop; and had expired thereafter. As such, the respondents had filed claim petition under Section 4 of the Act before the learned Commissioner. On 25.04.2022, when the matter was fixed before the learned Commissioner for evidence of the claimants, none had appeared on behalf of the petitioner. As such, vide order dated 25.04.2022 (Annexure P2), the petitioner was proceeded against ex parte. Subsequently, after conclusion of evidence, ex parte Award dated 29.04.2022 (Annexure P4), was passed against the petitioner. Intimation in respect of this Award was sent to the petitioner on 04.05.2022. Thereafter, the petitioner had filed present application on 28.11.2022 (Annexure P4) for setting aside ex parte order dated 25.04.2022; and for setting aside order dated 26.04.2022 whereby ex parte



evidence of the claimants was concluded; and for setting aside final Award dated 29.04.2022. Upon notice, the respondents/claimants had duly appeared and filed reply; whereupon vide the impugned order dated 29.04.2024 (Annexure P1), the said application of the petitioner has been dismissed. Hence, the present revision petition.

6. A perusal of the application (Annexure P4) as also the present petition as also during the hearing at the Bar, the only argument raised by the petitioner is that he was unable to appear on 25.04.2022 as the learned counsel for the petitioner had noted down the wrong date. However, there is no information whatsoever forthcoming from the record as to what was the 'wrong' date noted by the counsel representing the petitioner before the learned Commissioner. Even on a direct Court query, the Id.counsel for the petitioner is unable to give any information in this respect. As such, this casts a shadow of doubt on the sole plea raised by the petitioner.

7. The above plea of the petitioner is further falsified from the fact that as per the record, intimation in respect of the Award dated 29.4.2022 was sent to the petitioner on 4.5.2022. However, present application (Annexure P4), for setting aside the ex-parte order dated 25.04.2022 (Annexure P2) and ex-parte Award dated 29.04.2022 (Annexure P3) was received in the Court of the Id. Commissioner by registered post only on 28.11.2022. As per the provisions of the Limitation Act in particular as per Serial No.119(b)(description of present application) of Limitation Act,



an application for setting aside ex parte Award has to be filed within 30 days from the date of Award. In the present case, such application has admittedly been filed after 197 days. A perusal of the application (Annexure P4) further reveals that the petitioner has even failed to mention any provisions of any Section or Rule of the Act under which the petitioner has filed the application for setting aside ex parte order. The Learned Commissioner has also correctly noted that there is no provision for setting aside ex parte order on an application sent by registered post. Reasoning of the learned Commissioner is recorded in Para 7 of the impugned order which reads as follows: -

*“7. I perused the the records of the case and it reveals that exparteorder was passed on 25/4/2022 and exparte award was passed on 29/04/2022. The case of applicant/respondent that the advocate of applicant/respondent noted down wrong date. It is duty of the applicant/respondent to know about the day-to-day hearing of the case, which the applicant/respondent failed. Interestingly it is admitted fact that counsel for the applicant/respondent could not enquire about the present case even after passing of four months. Secondly provisions of Limitation Act is very well applicable in the present case and under Sr. No. 119 (b) (description of application) of Limitation Act, the application for setting aside exparte award has to be filed within thirty days from any decree or order, but the applicant/respondent has not submitted the application of setting aside exparte order within 30 days. Applicant/respondent send the application for setting aside exparte order by registered post, which was received on 28/11/2022, through there is no procedure to send the*



*application of setting aside exparte order by post even then hearing on the application was conducted on 26/04/2023 after a gap of one year from the date of passing of exparte order dated 29/04/2022 when the counsel of applicant/respondent appeared before this Court, which is highly belated. Under Rule 39(2) of the Employees Compensation Act, if a party to the proceedings, in default of so appearing he shall be deemed to admit the validity of any award made against the opposite party and to admit his own liability to indemnify the opposite party for any compensation recovered from him. There is no procedure under any law to send message or intimation by this hon'ble Court for the proceedings of the case even then intimation to this effect was sent to applicant/respondent on 4/5/2022. The applicant/respondent is being represented by his counsel in the said case and have full knowledge about the proceedings of the case."*

8. I find no infirmity in the above reasoning of the learned Commissioner. As such, no ground is made out to interfere in the impugned order. Present petition accordingly stands **dismissed**.

9. Pending application(s) if any also stand(s) disposed of.

**07.01.2025**

Sunena

**(Nidhi Gupta)**

**Judge**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No