

OFFICE OF THE SECRETARY-CUM- COMMISSIONER (LABOUR),
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
LABOUR DEPARTMENT, 5 SHAM NATH MARG, DELHI-110054

No.Addl.LC/Lab/2020/4016 - 4019

Dated: 18/12/2020

ADVISORY

For hearing of the cases under Employee's Compensation Act, 1923 after considering all the aspect of the Act, SOP has been finalized. In view of this all the Employee's Compensation Commissioner are directed to follow, following SOPs while dealing the case of Employee's Compensation under the Act.

1. It need not to repeat that Workmen's Compensation act, 1923, now Employee's Compensation Act is a social beneficial legislation that emanates from the Constitution of India- Directive Principles. Perusal of the 'objects and Reasons' behind the Act coveys a broader resolution of the State Policy and it lays greater emphasis for providing compensation with least technicality to defeat them. It says - Provision has been made for special Tribunal to deal cheaply and expeditiously with any disputes that may arise, and generally to assist the parties in a manner which is not possible for the civil Court.
2. Section 10A provides for suo-motto deposit by the employer. 4A provides for provisional deposit where the employer is in doubt about the precise amount to be deposited. Section 10 A (3) seeks the response of the employer to show the reason for not depositing the compensation, irrespective of the fact whether an application under Section 22 has been filed or not.
3. In vehicular accident related claim application, the insurance company of the vehicle be arrayed as respondent. It would curtail the recycling and repetition of proceedings pertaining to seeking their response, evidence and cross examination. The insurance company cannot allege harassment merely arraying them a party where vehicle is believed to be insured. Even otherwise the insurance Act has certain provisions providing for soldering social responsibility by virtue of them being in insurance business and license insurer. The Hon'ble Apex Court has laid emphasis on the necessity of compulsory insurance in many a judgment.
4. On receipt of claim application, if it is received by postal means the examination of the applicant may be done, in other cases notices be issued to seek response of the respondent/s.
5. Respondent/s are required to file written statement within 30 days as per Order V Rule 1 C.P.C, for adjournment, justification be sought and so on, on second adjournment and subsequent adjournments.


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6. In suitable situation/cases, response of the respondent may be sought as per Section 10A (3) of the Employee's compensation Act, 1923 to require them to deposit compensation.
7. The fair opportunity should be provided to everyone, but it must not be stretched too much for prolonging justice. The cause list should be programmed in such a way so that an adjournment in general is not taken for a longer period. Cause list may be categorized - as per the situation - viz pleading, evidence/ arguments.
8. Evidence by way of documents is certainly better evidence but it does not mean that every case must be proved by documentary evidence. There can be situations where there are blind accidents; it is not that oral testimony cannot prove a case provided that it is scrutinized to reveal the truth and technicality and upper side brilliance of a worker. Doors of justice must not be closed for mindless and penniless. The Hon'ble Apex Court as also the Hon'ble High Court/ have ruled in numerous cases where oral testimony had been succeeded in proving a case.
9. For arguments parties may be asked to file written brief arguments. Parties may be asked for oral arguments but fixing a case for the purpose on numerous occasions be discouraged.
10. It can be nobody's case that frauds must not be checked. The policy of the State is clear. But the person who levels such allegation must be responsible to bring material fact on record. Such narratives must be supported by an affidavit. To create unnecessary smoke screen be discouraged. No way, if it is being done for having the matter adjourned.
11. C.E.C/s would make endeavour to pass an order within 10 days shortest possible time and in any case it must not go beyond filing or hearing of the arguments.
12. After passing of the order, a copy thereof would normally be provided free of charges to the parties but in any case it would not entitle the parties to have them served a copy of the order not the same would come in the way in seeing time for deposit. They would be required to make steps for obtaining a certified copy by their own initiative.

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13. Respondents or any of the respondent would be required to deposit the amount of compensation within 30 days from the date of order of Employee's Compensation Commissioner.
14. If the respondent fails to deposit amount of compensation within 30 days, recovery certificate should be issued for recovery of compensation amount.
15. After 30 days from the date of order, in case the respondent while depositing compensation shows its decision to file an appeal before the appellate court, they would be required to file a proper application supported by an affidavit of the party stating therein that they are preferring an appeal and they would seek the withholding of payment for a week or so and in any case, they would state that in case they fail to file a stay from the appellate court, thereafter Commissioner would not be sought to withhold the disbursement after 60 days from the date of order.
16. In case the respondent/employer fails to file a stay order within 60 days from the date of order, the Commissioner would be required to make the payment without any delay.
17. Claimants would not be unnecessarily required to bring surety in every case. However, wherever they feel it necessary then the commissioner would ask for it by stating reasons.
18. Disbursement would be made in accordance with the provisions of the Act and Rules and the guidelines given by the Hon'ble High Court while justifying the harmony. In case of filing, an application by the claimant/s, or respondent/s the commissioner would dispose of the same by giving reasons.

This issue with the prior approval of the competent authority.


(S.C. Yadav) 18/12/2020

Addl. Labour Commissioner

Copy to: -

1. All Commissioner Employee's Compensation, All Districts.
2. PS to Secretary cum Commissioner (Labour), 5 Shamnath Marg, Delhi-54.
3. PPS to Spl. Commissioner (Labour), 5 Shamnath Marg, Delhi-54.
4. System Analyst, Labour Department, GNCTD, with the request to upload the advisory on the website of Labour Department.