

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
MFA (E/C) No.01 of 2023

Smt. Sarmista Ghosh (Saha), aged about 44 years wife of Sri Prasanta Saha resident of Bridhyanagar, Garumara Bridge, P.O. + P.S. Ranirbazar, District- West Tripura; (owner of truck bearing No.AS-01-FC-5056)

..... Appellant(s)

V E R S U S

1. Smt. Menati Debbarma wife of late Rabindra Debbarma resident of Samrucherra, Kailashahar, P.S. Kailashahar, District- Unakoti, Tripura.
2. Sri Pradip Debbarma son of late Rabindra Debbarma resident of Samrucherra, Kailashahar, P.S. Kailashahar, District- Unakoti, Tripura.
3. The Divisional Manager, New India Assurance Company Limited, Mantribari Road, Agartala, P.S. West Agartala, District- West Tripura. (Insurer of truck bearing No.AS-01-FC-5056).

..... Respondent(s)

For Appellant(s) : Mr. Sankar Lodh, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Date of hearing and judgment : *5th January, 2024.*

Whether fit for reporting : YES.

JUDGMENT & ORDER(ORAL)

Heard Mr. Sankar Lodh, learned counsel for the appellant.

[2] This appeal has been preferred by the appellant under Section 30 of the Employees' Compensation Act, 1923 against the impugned judgment and award dated 20.12.2022 passed by the learned Commissioner, Employees' Compensation, West Tripura, Agartala in T.S.(E.C) No.06 of 2017.

[3] It appears that while the appeal was admitted for hearing on 14.07.2023, the substantial questions of law were not framed for admission of the appeal. However, learned counsel for the appellant submits that the

appeal is fit to be decided on the substantial questions of law that have been proposed in the memo of appeal. As such, at the time of hearing of this appeal, this Court is of the considered opinion that the appeal is required to be heard on the following substantial questions of law :

- (i) Whether the impugned judgment and award is sustainable when the claimant-respondent Nos.1 and 2 did not issue notice under Section 10 of the Employees Compensation Act?
- (ii) Whether disbelieving the eye-witnesses only after relying the police report and records of the criminal case, ld. Commissioner can come to conclusion that the vehicle was driven by Atul Debnath and not Sudip Kumar Deb?

[4] In order to answer the substantial questions of law framed above, the relevant background of facts leading to the impugned award needs to be referred to in brief. By the impugned award, the learned Commissioner, Employees' Compensation, West Tripura, Agartala held that the claimant-petitioners are entitled to get compensation of Rs.10,23,800/- with interest @ 12% per annum from 07.05.2017 i.e. one month after the date of accident till realization. The opposite party No.2, New India Assurance Company Limited was directed to pay the amount of compensation with interest within 30 days from the date of the award and thereafter to recover the same from the opposite party No.1/appellant herein who is the owner of the vehicle. The learned Commissioner also apportioned the compensation in the ratio of 60% to petitioner No.1 and 40% to petitioner No.2 and further provided for the manner in which 50% of their shares should be kept in fixed deposit in their respective names in any nationalized bank for a period of five years. The balance was to be paid to them to their respective bank accounts. The claimants were allowed to

withdraw monthly interest from their respective fixed deposit account to meet their day to day expenses. No loan or premature withdrawal was permitted from any of the fixed deposit without prior permission of the Commissioner.

[5] Briefly stated, claimant is the mother of the victim Prabhat Debbarma who, according to her, was engaged as an assistant driver by the owner of the vehicle bearing registration No.AS-01-FC-5056 since 2015. On 07.04.2017 at about 11 p.m the victim was proceeding from Khayerpur towards Jirania by the said truck which was driven by the driver of the vehicle. The vehicle met with an accident at Bridhyanagar, as a result of which, Prabhat Debbarma sustained grievous injuries on various parts of his body and immediately the local people with the help of Fire Service shifted him to AGMC & GBP Hospital, Agartala where he succumbed to his injuries on 13.04.2017 at about 6 p.m. The claimant alleged that the vehicle was driven at high speed in a rash and negligent manner by the driver of the truck. A police case was registered bearing Ranirbazar P.S. Case No.13 of 2017 under Sections 279/338/304(A) of IPC. According to the claimant, the petitioner was aged about 18 years at the time of the accident and used to get monthly wages of Rs.10,000/-. The vehicle was duly insured with New India Assurance Company Limited and the policy was up to date at the time of accident. Therefore, Insurance Company was made opposite party No.2 and notices were served upon the employer, opposite party No.1 as per provisions of Section 10 of the Employees' Compensation Act but with no

result. Therefore, the claimant preferred the claim petition before the learned Commissioner, Employees' Compensation Act, 1923.

[6] Opposite party No.1, who is the appellant, filed a written objection admitting that she is the registered owner of the vehicle bearing registration No.AS-01-FC-5056 (truck). She stated that at time of alleged incidents, it had all its valid documents like registration certificate, tax token, insurance certificate and driving licence of the driver. She stated that the accident did not occur due to rash and negligent driving by the driver of the offending vehicle. She also stated that at the time of accident one Sudip Kumar Deb was the appointed driver of the truck having a valid driving licence. She denied the monthly income of the deceased Prabhat Debbarma. She also stated that the vehicle was duly insured with New India Assurance Company Limited for the period from 17.05.2016 to 16.05.2017 and that compensation, if any, should be awarded against the insurer of the vehicle.

[7] Opposite party No.2, New India Assurance Company Limited in their written statement formally denied the accident and involvement of the deceased in the said accident, his monthly wages, age etc. They also prayed for direction upon the owner of the truck to produce the valid driving licence of the driver who was driving the vehicle at the relevant date and time of the accident and the original insurance policy of the vehicle. Otherwise, the insurance company would not be liable to indemnify the awarded amount of compensation. On the basis of pleadings and documents of the parties, following issues were framed for adjudication :

(1) Whether deceased Prabhat Debbarma was an employee under O.P. No.1 at the time of alleged incident?

(2) Whether said Prabhat Debbarma died on 13.04.2017 due to the injuries sustained by him in an accident occurred on 07.04.2017 at about 11 p.m. at Bridhyanagar under Ranirbazar P.S. out of use of vehicle No.AS-01-FC-5056(truck) and in course of his employment under O.P. No.1?

(3) Are the petitioners entitled to get any compensation? If so, to what amount and who is liable to pay the same?

(4) To what other reliefs the parties are entitled?

[8] The claimant examined herself as P.W.1 and proved certain documents which are Exbt.1 to Exbt.4, namely, FIR and written complaint, seizure list, postmortem report, final form/report. The petitioners in support of their case also examined another witness, namely, Sri Gopal Debbarma as P.W.2. The owner/O.P No.1/appellant herein examined herself as O.P.W. No.1 and proved certain documents which are Exbt.A to Exbt.G. In support of her case, she also adduced two other witnesses, namely, Sri Kamal Saha as OPW No.2 and Sri Rajesh Karmakar as OPW No.3.

[9] Learned trial Court dealt with the evidence adduced by the claimant, opposite party No.1 i.e. the owner and appellant herein and also took into consideration the documents exhibited by the claimant being FIR instituted by the appellant herein herself regarding the incidents, postmortem report, final form/report prepared by the investigating agency as adduced by the claimant. The learned Commissioner, upon consideration of the materials, oral and documentary evidence placed on record rendered the award *inter alia* holding as under :

“19. The petitioners have claimed that at the time of the accident, deceased Prabhat Debbarma was 18 years old. But in support of their claim they have not submitted any document to prove the age of the deceased. On the other hand, opposite parties though denied about the age of the deceased Prabhat Debbarma but no documentary proof is submitted by them in support of their claim. That, being the situation this Commission has no other alternative but to take a lenient view in accepting the public document namely, the Post Mortem Examination Report of the deceased Prabhat Debbarma for assessing the age of the deceased. In the Post Mortem Examination Report (Exbt.3) his age was mentioned as 18 years which is accordingly assessed as his age at the time of accident. Thus, 18 years is taken as his age at the time of accident. So, relevant factor will be 226.38. The petitioners in their claim petition stated that the monthly wages of the deceased was Rs.10,000/-. But in support of their claim they have not submitted any document or any other satisfactory proof. On the other hand, though the O.P. No.1 and the O.P. No.2 in their written objection as well as written statement denied about the monthly income of the deceased but they have not submitted any documentary proof in support of their claim. Moreover, the O.P. No.1 did not deny about the employment of the deceased Prabhat Debbarma as an assistant of the truck. That, being the situation this Commission has no other alternative but to take a lenient view in assessing the monthly wages of the deceased. In the year 2017 a day labour could easily earn Rs.300/- per day i.e. Rs.9,000/ per month which will meet the ends of justice in assessing the monthly income of the deceased Prabhat Debbarma and accordingly, his monthly income is assessed at Rs.9,000/-. Thus, the petitioners are entitled to an amount equal to 50% of the monthly wages of the deceased multiplied by the relevant factor. So, the compensation under Section 4 sub section 1(a) of the Act comes to [(50% of Rs.9,000/-) Rs.4,500/- X 226.38 = Rs.10,18,710/-. As per the said Act, petitioners are also entitled to get Rs.5,000/- towards funeral expenses. The total amount of compensation thus comes to Rs.10,23,710/- (Rs.10,18,710/- + Rs.5,000/-) rounded off to Rs.10,23,800/-.

20. It is already decided that the accident had occurred due to rash and negligent driving of the Truck bearing registration No. AS-01-FC-5056 by its driver Atul Debnath and out of the said accident Prabhat Debbarma, assistant of the vehicle, sustained injuries and died arising out of and in course of his employment under the O.P. no.1 i.e. the owner of the Truck. Thus, liability of payment of compensation should be borne either by the owner or the insurer of the Truck bearing registration no. AS-01-FC-5056. As per Exbt.E (Insurance policy), the vehicle bearing registration no. AS01-FC-5056 (Truck) was insured with the New India Assurance Company Ltd. for the period from 17.05.2016 to 16.05.2017 and the accident had occurred on 07.04.2017 i.e. within the period of policy and it is a commercial vehicle package policy. Thus, it can be said that the vehicle was under full insurance coverage with the New India Assurance Company Ltd. at the time of alleged accident. As per Exbt.F the driving licence which was filed by the owner of the truck is in the name of one Sudip Kumar Deb. In the preceding paragraphs it is already discussed that at the time of accident one Atul Debnath was the driver of the vehicle but no driving licence in the name of Atul Debnath is submitted by the owner of the Truck i.e. O.P. No.1. The driving licence of Sudip Kumar Deb (Exbt.F) which was submitted by the O.P. No.1 is not related in connection with this case and thus, the O.P. no.1 has violated the terms and condition of the Insurance Policy.

21. As per law laid down by the Hon'ble Supreme Court rendered in Shamanna & anr. v. Divisional Manager, Oriental Insurance Co. Ltd., 2018 ACJ 2163 wherein the driver did not have the valid driving licence and the Tribunal ordered for initial payment to be made by Insurance Company and

then to recover the same from owner. Matter was ultimately challenged before Hon'ble Supreme Court regarding validity of the order of the Tribunal as Hon'ble Karnataka High Court set aside the order of Tribunal of "pay and recovery" holding that said power was vested in Hon'ble Supreme Court under Art.142 of the Constitution. Finally, in said case Hon'ble Supreme Court upheld the order of the Tribunal on "pay and recovery." In the instant, it is decided that Sri Atul Debnath was the driver of the Truck at the time of accident but no Driving Licence in the name of Atul Debnath was submitted by the owner of the truck and as such the owner of the truck has violated the terms and conditions of the Insurance Policy though the Insurance Policy was valid at the time of accident. However, in view of the law laid down in Shamanna (supra), the Insurance Company is held responsible for making payment of compensation initially and then to recover the same from the O.P. no.1, Smti. Sarmista Ghosh (Saha), W/O. Sri Prasanta Saha, resident of village Bridhyanagar, Garumara Bridge, P.O. & P.S. Ranir Bazar, District West Tripura by filing appropriate application in appropriate forum. Thus, the liability of payment of compensation is fixed upon the Opposite Party No.2 i.e. the New India Assurance Company Ltd. All the issues are decided accordingly.

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It is, therefore, held that the petitioners are entitled to get compensation of Rs.10,23,800/- (Rupees Ten Lakh Twenty-three Thousand Eight Hundred only) with interest @ 12% per annum from 07.05.2017 i.e. one month after the date of accident till realization. The O.P. no.2, New India Assurance Company Ltd., will pay the amount of compensation with interest within 30 days from today and thereafter, the Insurance Company will recover the same from the O.P. No.1 Smti. Sarmista Ghosh (Saha), W/O. Sri Prasanta Saha, resident of village Bridhyanagar, Garumara Bridge, P.O. & P.S. Ranir Bazar, District West Tripura by filing appropriate application in appropriate forum. Out of the total awarded amount of compensation inclusive of interest, the petitioner no.1 will get 60% and the petitioner no.2 will get 40%. Out of the respective share of petitioners no.1 and 2, 50% each of their share shall be kept in fixed deposit scheme in their respective names in any nationalized bank preferably within their local jurisdiction for a period of five years each and the balance amount shall be paid to them through their respective bank account. Petitioners no.1 and 2 shall be entitled to withdraw monthly interest from their respective fixed deposit account to meet their day to day expenses. No loan or premature withdrawal shall be permitted from any of the fixed deposit scheme without prior permission from this Commission. Supply copy of this award free of cost to the parties. The claim petition stands disposed of on contest. Make necessary entry in the Trial Register as well as in the CIS."

[10] Learned counsel for the appellant-owner, Mr. Sankar Lodh has in support of the substantial questions of law framed for consideration, *inter alia* submitted as under :

That no notice as mandatory required to be served prior to the institution of compensation claim in terms of Section 10 of the Act of 1923 was submitted by the claimant and as such, the

claim petition was not entertained. He submitted that neither was the notice as averred by the claimant in her application placed on record or exhibited. The learned Commissioner, therefore, committed a jurisdictional error in entertaining the claim petition without compliance of the mandatory notice.

[11] Learned counsel for the appellant further submits that the learned Commissioner committed a perversity in the eye of law by disbelieving the eye witnesses account adduced by the owner opposite party No.1, i.e. OPW No.1 , 2 & 3 by relying upon the police report and records of the criminal case to come to a conclusion that the vehicle was driven by Atul Debnath and not Sudip Kumar Deb. Learned counsel has drawn the attention of the Court to the deposition of the claimant where she has failed to disclose the name of the driver of the truck and discharge the burden of proof to establish the liability of the owner of the truck for recovery of compensation by the insurance company as per the award. It is submitted that the OPW No.1 i.e. the appellant and OPW No.2 Sri Kamal Saha have in their deposition stated respectively that the driver had a valid driving licence and OPW No.2 has stated that Sudip Kumar Deb was the driver of the vehicle prior to the accident. OPW No.2 also stated that at the time of accident, he was present there for going to his house from the house of his friend at about 2300 hours. OPW No.3 Sri Rajesh Karmakar also had deposed that at the time of accident one Sudip Kumar Deb was the driver of the vehicle whom he knew prior to the accident and he saw him inside the vehicle in the driving seat where the accident took place. No evidence was adduced by the

opposite party No.2 i.e. the insurance company as regards who was the driver of the vehicle which met with an accident. It is submitted that the learned Commissioner proceeded to take into consideration the final report [Exbt.4] submitted by the police in order to come to a finding that at the time of accident, Atul Debnath was the driver and not Sudip Kumar Deb. Learned counsel for the appellant submits that in a claim case arising under the Employees' Compensation Act or under the Motor Vehicles Act, 1988 the adjudication is in the nature of a civil suit and not a criminal case. Relying upon the decision rendered by learned Single Judge of this Court in case of *Smt. Rampati Chakma versus Sri Sunil Kumar Ram and others* reported in *2016 SCC Online Tri 548* he submits that the opinion of the learned Court in a motor accident claim case would also apply to the present claim case under Employees' Compensation Act as both are in the nature of a civil suit for adjudication of claim arising out of the accident. It is submitted that the learned Court at paragraph 9 and 11 of the judgment categorically held that the Tribunal had grossly erred in law in relying on the contents of the ejahar and the police investigation report to disbelieve and discard the case of the claimant.

[12] It is submitted that in the present case the owner of the vehicle i.e. the appellant has adduced oral evidence through O.P.W. No.1, appellant herself and O.P.W. No.2 and O.P.W. No.3 who have categorically deposed that at the time of accident the vehicle was driven by Sudip Kumar Deb and there is no mention of Atul Debnath. It is submitted that the maker of the documents i.e. the police report has not been examined before the learned

Commissioner. Exbt.1 to 4 have been adduced by the claimant and contents thereof cannot be relied upon to render a finding contrary to the oral evidence of the opposite party No.1 and her two witnesses. Therefore, the findings rendered by the learned Commissioner amount to perversity in the eye of law and are fit to be discarded in answer to the substantial question of law for adjudication of this appeal under Section 30 of the Employees' Compensation Act, 1923.

[13] I have considered the submission of learned counsel for the appellant and gone through the lower court records. I have also taken note of the evidence adduced by the claimant, the opposite party No.1 i.e. appellant both oral and documentary and also gone through the impugned award. As regard the first substantial question of law, it is evident from the claim petition, paragraph G that the claimant has averred that notice was served to the opposite party No.1 i.e. the owner/appellant herein but did not yield any result. The learned Commissioner has also dealt with the issue at paragraph 8 of the award. Section 10(1) of the Employees' Compensation Act, 1923 provides that no claim for compensation shall be entertained by the Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within two years of the occurrence of the accident or, in case of death, within two years from the date of death.

The last proviso to sub-section (1) of Section 10, however, reads as under :

“Provided further that the Commissioner may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given or the claim has not been preferred in due time as provided in this sub-section, if he is satisfied that the failure so to give

the notice or prefer the claim as the case may be was due to sufficient cause.”

It provides a discretion upon the Commissioner to entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given or the claim has not been preferred in due time as provided in the sub-section, if he is satisfied that the failure so to give the notice was due to sufficient cause.

[14] As it appears the learned Commissioner who proceeded to entertain and decide the claim in the absence of the actual proof of service of notice in the facts of the case since the 5th proviso to sub-section (1) of Section 10 provides that the requirement of notice is dispensable at the discretion of the Commissioner and not mandatory for entertaining a claim petition. The 5th proviso to sub-section (1) of Section 10 qualifies sub-section 10(1) regarding the service of notice requirement which cannot be treated as mandatory on non-compliance of which no claim compensation can be entertained. The substantial question of law No.1 as framed for adjudication in this appeal is answered in the negative.

[15] This court now proceeds to examine the contentions of the appellant as regards the second substantial question of law, i.e. whether learned Commissioner committed a perversity in the eye of law in relying upon the police reports as against the oral evidence adduced by the owner/appellant herein. Let it be indicated at the outset herein that the FIR was lodged by the owner/appellant herein on 08.04.2017 regarding the accident of her truck vehicle bearing No.AS-01-FC-5056 which took place

at about 11 in the night on 07.04.2017. Though the appellant, being the owner, lodged the FIR for proper investigation by the police, she consciously chose not to name the driver who was driving the said vehicle which met with an accident leading to the death of the son of the claimant. The written complaint and the FIR forms the basis of the entire claim petition and adjudication and the same has been exhibited by the claimant as Exbt.1. Evidently, the machinery of law was set in motion by the owner i.e. the appellant and she has not disputed the veracity of the written complaint made by her regarding the accident. It is quite difficult to appreciate as to why the owner of the vehicle would not disclose the name of the driver of her vehicle which met with an accident. The appellant in her written objection to the claim petition disclosed the name of the driver as Sudip Kumar Deb for the first time having a valid driving licence bearing No.TR-0119920056822. In her deposition as O.P.W. No.1 she has averred that the driver was having a valid driving licence. O.P.W. No.2 in his examination-in-chief though states that at the time of accident Sudip Kumar Deb was the driver of the vehicle prior to the accident and that at the time of accident O.P.W.2 was present there while going to his house from the house of his friend at about 2300 hours but in the cross-examination by the claimant he has stated that he had not seen the accident. As such, the testimony of OPW No.2 could not be relied upon on this count. OPW No.3 in his deposition has also deposed that at the time of accident one Sudip Kumar Deb was the driver of the vehicle whom he knew prior to the accident and he saw him inside the vehicle in the driving seat where the accident took place. However, in his cross-examination by the claimant, he has stated that he has

a shop near the place of occurrence and he saw that Sudip Kumar Deb was getting down from the vehicle and some other persons were lying injured outside the vehicle. Be it indicated here that the incidents led to serious injury of four occupants in the vehicle as was found by the police which started investigation after institution of the FIR by the owner/appellant herein and out of those four, during course of treatment, the son of the claimant and one sandeep Malsom died on 13.04.2017 and 08.04.2017, respectively. Sudip Kumar Deb later appeared before the court to seek bail and produced his driving licence stating that he was the driver of the vehicle. Surprisingly, neither the owner nor the said Sudip Kumar Deb has produced any report regarding any injury sustained during such a serious accident in which two persons died and two others sustained serious injuries.

[16] On the other hand, the police after conducting the investigation submitted final form/report which was adduced by the claimant and admitted without objection on the part of the owner. The final form/report therefore was on record before the learned Commissioner to be taken note of as evidence admitted without objection by the owner. The final form/report indicates that Atul Debnath was extricated from the vehicle while attached with the steering of the vehicle and with the help of a drazer machine and the Fire Service staff, he was shifted to the GBP Hospital for treatment. Atul Debnath thereafter continued to evade arrest despite issuance of non-bailable warrant of arrest and a proclamation. Final form/report also indicates that in course of investigation statement of witnesses and other circumstantial evidence collected reveal that on 07.04.2017 night at about 2300 hours Atul Debnath, son of Sri Satish Debnath, Haradhan Chowmuhan and other three

others including the deceased were proceeding to Jirania from khayerpur in the offending vehicle bearing No.AS-01-FC-5056 (truck) which met with an accident due to rash and negligent driving. As a result, all those persons including the driver Atul Debnath sustained grievous injuries on their persons and after the accident, two persons were recovered by the local people and police staff and shifted to GBP hospital by ambulance and another two persons including the driver were recovered by the Fire Service staff of Ranirbazar and shifted to GBP Hospital. The said vehicle was badly damaged. The statements of witnesses taken during the investigation also reveal that at the time of accident the driver of the vehicle was one Atul Debnath.

[17] Having confronted with such evidence on record in a claim for compensation due to an accident under the Employees' Compensation Act, learned Commissioner on the test of preponderance of probabilities to be employed in a case of civil nature came to the conclusion that the vehicle was driven by Atul Debnath and not Sudip Kumar Deb. The owner-appellant had failed to disclose the name of the driver in the FIR instituted just after the accident on 08.04.2017. As such, the findings of the learned Commissioner cannot be said to suffer from perversity in the eye of law forming a substantial question of law as proposed by the appellant herein. The opinion of the learned Court relied upon by the learned counsel for the appellant in case of *Smt. Rampati Chakma* (supra) does not convey that the contents of the police investigation report are to be outrightly discarded in an accident claim case of such nature which is in the nature of a civil suit. The observations of the learned Court are on the facts of the case where both the

claimant and P.W.2 were the eye witnesses of the accident resulting in the death of the deceased whereas the police investigation report and the FIR were relied upon by the learned Tribunal to disbelieve and discard the case of the claimant which was despised by the learned Court. In the present case, the evidence of OP No.1 and her two witnesses who cannot be believed to be the eye witnesses, when weighed against the other documentary evidence brought on record in the form of FIR and written complaint instituted by the owner/appellant herself, seizure list [Exbt.2] postmortem report [Exbt.3] and final form/report [Exbt.4] do not lead to a conclusion that the findings of the learned Commissioner as to who was the driver of the vehicle suffer from any perversity on facts calling for interference by this Court in a statutory appeal preferred under Section 30 of the Employees' Compensation Act, 1923. In this regard, the opinion of the Apex Court in the case of ***Om Prakash Batish vs Ranjit alias Ranbir Kaur & Others*** reported in (2008) 12 SCC 212 show that in a proceeding under the Employees Compensation Act, the provision of Code of Civil Procedure or of the Evidence Act are not applicable. The Commissioner could law down his own procedure and for the purpose of arriving at the truth, rely upon such documents which were produced before it. Para 17 & 19 of the report are extracted hereunder:

“17. In a proceeding initiated under the Act the provisions of the Code of Civil Procedure or of the Evidence Act are not applicable. The Commissioner could lay down his own procedures. He could, for the purpose of arriving at the truth, rely upon such documents which were produced before it.

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19. The entire approach of the High Court, with respect, as regards the correctness or otherwise of the said statement is wrong. The statement was recorded by the police authorities. If that be so, it could be looked into by the Workmen's Compensation Commissioner. The High Court opined that the Commissioner had

mixed up the proceeding before it with the criminal proceedings. He did not.

As such, the instant substantial question of law is also answered against the appellant.

[18] Consequently, the appeal stands dismissed. Pending application(s), if any, also stands disposed of. Lower court records be sent to the court below.

(APARESH KUMAR SINGH) CJ

DIPESH DEB

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