

**HIGH COURT OF TRIPURA
AGARTALA
MFA(EC) NO.5 OF 2023**

Smt. Rekha Nama and ors.

.....**Appellant(s)**

Versus

Sri Sudhir Karmakar and anr.

.....**Respondent(s)**

For the Appellant(s) : Mr. T. Chakraborty, Advocate.

For the Respondent(s) : Mr. S.D. Choudhury, Advocate.
Mr. D. Kalai, Advocate.
Mr. S. Noatia, Advocate.

Date of hearing and delivery of
Judgment & Order : 05.07.2024

Whether fit for reporting : YES/NO.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R (O R A L)**

This present appeal is filed against the Judgment and nil award dated 23.08.2023, passed by the learned Commissioner, Employee's Compensation West Tripura, Agartala in Case No.T.S.(E.C)08 of 2017.

2. The brief of this case is that the one Dilip Nama i.e., husband of the appellant No.1 herein was performing his duty as a driver under respondent No.1. The said Dilip Nama with one assistant/helper while proceeding from Agartala for Gauhati driving the truck bearing No.AS-01-R-2783 became missing. In

connection with the missing of the said Dilip Nama, his wife i.e., appellant No.1 herein lodged a missing information of her husband to the Amtali Police State which was registered as Amtali P.S. G.D. entry No.611 dated 15.04.2008. The owner of the said vehicle i.e. respondent No.1 herein also lodged another FIR which was registered at East Agartala Police Station vide East Agartala P.S. Case No.140 of 2008 and police after investigation filed chargesheet wherein it was mentioned that the vehicle was stolen. The said case was registered as G.R.729 OF 2008. Subsequently, the claimant-appellants registered a case bearing No. T.S.(EC)08 of 2017 before the Commissioner of Employee's Compensation, West Tripura Agartala claiming compensation. The respondents also contested the case by submitting their respective written statements. After the Trial, the learned Reference Judge passed the Judgment with nil award dated 23.08.2023.

3. The appellant herein by filing this present appeal has prayed to set aside the impugned Judgment and Award dated 23.08.2023.

4. Heard Mr. T. Chakraborty, learned counsel appearing for the appellants as well as Mr. S.D. Choudhury, learned counsel

appearing for respondent No.2 Mr. D. Kalai, learned counsel, and Mr. S. Noatia, learned counsel for respondent No.1.

5. Mr. T. Chakraborty, learned counsel appearing for the appellants submit that both the owner of the vehicle and appellant No.1 had filed FIR but police admitted the FIR of the owner of the vehicle but did not admit the FIR of the appellant No.1. The police thereafter filed their chargesheet wherein it was mentioned that the vehicle was stolen away and showed the said Dilip Nama as absconder. Learned counsel submits that police is unable to find the vehicle nor the driver of the the vehicle. Learned counsel further submits that the Court below failed to appreciate that the person has been missing for the last 15 years and as per law it can easily be presumed that he is dead. Stating thus learned counsel urged this Court to allow this appeal.

6. On the other hand, Mr. S.D. Choudhury, learned counsel appearing for respondent No.2 submits that at the point of the incident, the State of Tripura was suffering from extremist related incident and there is a memorandum dated 7th January 2000 issued by the State Government to deal with person missing or abducted in such cases. Further learned counsel

submits that the final report of the police suggests that the vehicle was stolen and the person in question is absconding.

7. Heard and perused the evidence on record.

8. It is seen from the record that admittedly in the year 2008, the husband of the complainant-appellant had gone missing and way back on 7th January 2000, the Government of Tripura had issued a memorandum vide No.F1(1)-GA(P&T0/97(P) with regard to person missing after abduction by extremist. Even if the version of the owner-respondent is to be believed that the husband of the complainant-appellant has gone absconding, the same is not supported by way of any oral or documentary evidence.

9. In view of the same, the impugned Judgment and Order dated 23.08.2023 is set aside and the matter is remanded back to the learned Commissioner of Employee's Compensation to ascertain the police investigation report and also the final report in pursuance of the complaint made by the appellant-wife. The learned Court below has to also ascertain the evidence of the concerned police officer and thereafter pass a reasoned order within 6(six) months preferably on or before 31st December

2024. Both sides be given reasonable liberty to meet the ends of justice.

10. With the above observation and direction, this present appeal stands disposed of. Stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE



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