

THE HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

MFA(W/C) NO.24 of 2009

Tripura State Electricity Corporation Ltd.,
Represented by its Chairman-cum-Managing Director,
Bidyut Bhavan, Banamalipur, Agartala, West Tripura.

..... *Appellant.*

- Vs -

Shri Sajal Kanti Sabar,
Son of Late Binod Behari Sabar,
C/o Gita Rani Sabar,
Vill : Kalacherra, Ganjer Tilla,
P.O : Santir Bazar, Dist. : South Tripura.

..... *Respondent.*

_B_E_F_O_R_E_

HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant	:	None.
For the respondent	:	None.
Date of hearing & judgment	:	27.02.2015.
Whether fit for reporting	:	No.

JUDGMENT & ORDER(ORAL)

This appeal by the Tripura State Electricity Corporation Ltd. is directed against the award dated 13th May, 2009 passed by the learned Commissioner, Workmen's Compensation, South Tripura, Udaipur in T.S.(W/C)06 of 2008, whereby he awarded a sum of Rs.5,20,584/- in favour of the claimant under the Workmen's Compensation Act.

2. Only two grounds have been raised in the appeal. Firstly, that as per the disability certificate the claimant had suffered disability of 90% and, therefore, the Tribunal could not have assessed the disability at 100%. The second question raised is whether interest is payable from the date of accident or from a later date.

3. The appeal was admitted on the following substantial questions of law :

“(i) Whether the Ld. Commissioner is conferred any power by the statute to hold the quantum of disability superseding the disability determined by the qualified medical evidence?”

“(ii) Whether interest contemplated under Sec.4(A) is intended to be interest from the date on which the workman sustained injury?”

4. As far as the first question is concerned, true it is that his disability is 90% but the claimant has suffered a spinal injury. He is virtually unable to work and he has in fact lost his job. Therefore, the loss of earning capacity is 100% and I find no error in the award of the Tribunal in this regard.

5. As far as the second question is concerned, the Apex Court in ***Oriental Insurance Company Ltd. vs. Siby George & Ors, 2012 AIR SCW 4384*** wherein after following judgments of the Apex Court in ***Pratap Narain Singh Deo V. Shrinivas Sabata and Anr., AIR 1976 SC 222*** and in ***Kerala State Electricity Board V. Valsara K., AIR 1999 SC 3502*** the Apex Court held as follows :

“12. The decisions in Pratap Narain Singh Deo was by a four Judge Bench and in Valsala by a three Judge Bench of this Court. Both the decisions were, thus, fully binding on the Court in Mubasir Ahmed and Mohd. Nasir, each of which was heard by two Judges. But the earlier decisions in Pratap Narain Singh Deo and Valsala were not brought to the notice of the Court in the two later decisions in Mubasir Ahmed and Mohd. Nasir.

13. In light of the decisions in Pratap Narain Singh Deo and Valsala, it is not open to contend that the payment of compensation would fall due only after the Commissioner's order or with reference to the date on which the claim application is made. The decisions in Mubasir Ahmed and Mohd. Nasir insofar as they took a contrary view to the earlier decisions in Pratap Narain Singh Deo and Valsala do not express the correct view and do not make binding precedents.”

Therefore, it is obvious that compensation becomes due on the date of accident and the interest is also payable from the date of accident and therefore, there is no error in the award of the Commissioner in this regard.

6. In view of the above discussion, I find no merit in the appeal which is accordingly dismissed.

Send down the LCR forthwith.

CHIEF JUSTICE