

# THE HIGH COURT OF TRIPURA AGARTALA

## **RSA NO.59 OF 2009**

**Smti. Geeta Rani Chakraborty,**  
wife of Late Kalipada Chakraborty,  
C/o Sri Ratan Chakraborty,  
Son of Sri Harendra Chakraborty,  
Resident of Chandrapur,  
P.S. Radhakishore Pur, Udaipur,  
Dist. South Tripura.

**... Appellant**

**- Vs -**

**1. Sri Samir Chakraborty,**  
son of Late Kalipada Chakraborty,

**2. Smti. Puspa Rani Chakraborty,**  
W/o Late Kalipada Chakraborty,  
respondents No.1 and 2 are  
residents of Tepania,  
P.S. Radhakishore Pur, Udaipur,  
Dist. South Tripura,  
at present residing at Das Para near  
Chira Mill, Vill. Garjan Mura,  
P.S. Kakraban, Udaipur,  
Dist. South Tripura.

Respondent No.1 being minor is represented  
by his natural guardian and mother  
Smti. Puspa Rani Chakraborty,  
the respondent No.2 herein.

**3. The State of Tripura,**  
represented by the District Magistrate &  
Collector, South Tripura,  
Udaipur.

**4. The Director of Family Welfare &  
Preventive Medicine,**  
Government of Tripura, Agartala.

**5. The Chief Medical Officer,**  
South Tripura, Udaipur.

**6. The Accountant General(A&E),**  
Tripura, Agartala.

**...Respondents**

**BEFORE  
THE HON'BLE MR. JUSTICE S.C. DAS**

For the petitioner : Ms. S. Deb Gupta, Advocate.

For the respondent No.1 & 2 : Mr. Sankar Bhattacharji,  
Advocate.

For the respondent Nos.3, 4 & 5 : Mr. G.S. Bhattacharji,  
Advocate.

For the respondent No.6 : None.

Date of hearing & delivery  
of Judgment & order : 17.09.2015

Whether Fit for Reporting : 

|            |           |
|------------|-----------|
| <b>Yes</b> | <b>No</b> |
|            | √         |

**JUDGMENT & ORDER(ORAL)**

Heard learned counsel, Ms. S. Deb Gupta for the appellant and learned counsel, Mr. Sankar Bhattacharji for the respondent Nos.1 and 2 and learned counsel, Mr. G.S. Bhattacharji for respondent Nos.3, 4 and 5. No representation on behalf of respondent No.6. The second appeal had been admitted for hearing on the following substantial questions of law:-

***“ 1. Whether the first appellate court committed illegality by deciding that the respondent No.1 was entitled to get the family pension and other financial benefits accruing from the death of late Kalipada Chakraborty in view of the statutory provisions prescribed under Rule 54(7) and Rule 54(8) of CCS Pension***

***Rules, 1972 as adopted by the Govt. of Tripura?***

***2. Whether the first appellate court committed illegality by granting a decree in respect of the suit wherein no consequential relief was claimed?"***

**2.** Respondent Nos.1 and 2 as plaintiffs (hereinafter mentioned as plaintiffs) instituted Title Suit No. 4 of 2003 in the Court of Ld. Civil Judge, Junior Division, South Tripura, Udaipur against the appellant as defendant No.5 (hereinafter mentioned as defendant No.5) and respondent Nos.3 to 6 as defendant Nos.1 to 4 (hereinafter mentioned as defendant Nos.1 to 4) seeking declaration that the plaintiff No.1 Samir Chakraborty, was entitled to 50 per cent share of family pension and other pensionary benefits for the death of his father Kali Pada Chakraborty. The suit was decreed in favour of the plaintiff by the trial Court holding that the plaintiff No.1 is a legal heir of Lt. Kali Pada Chakraborty and, therefore, he is entitled to get 50 per cent share of the family pension and other financial benefits for the death of his father Kali Pada Chakraborty till his attaining the age of 25 years.

**3.** The judgment and decree passed by trial Court on 19.04.2008 was challenged before the learned District Judge South Tripura, Udaipur, in Title Appeal No.10 of 2009 by the defendant No.5 Smt. Geeta Rani Chakraborty who is the appellant herein and the appeal was dismissed by judgment dated 09.09.2009 passed by

the learned District Judge. Now the second appeal is preferred challenging the judgment.

**4.** Learned counsel, Ms. S. Deb Gupta appearing for the appellant has fairly submitted that the second appeal is preferred challenging concurrent finding of the trial Court and the first appellate Court and only issue to be decided as to from which date the plaintiff No.1 will be entitled to get the family pension. She has referred a judgment dated 26.02.2015 passed by the Division Bench of this Court in WP(C) No. 450 of 2014 and submitted that the family pension will be admissible to the plaintiff No.1 only with effect from 22<sup>nd</sup> of November 2012.

**5.** I have meticulously gone through the judgment of the trial Court and the appellate Court. There is no infirmity in the judgment passed by the trial Court and the appellate Court. The trial Court and the appellate Court correctly considered Rule 54(7) and Rule 54(8) of CCS Pension Rules, 1972 and arrived at a conclusion that the plaintiff No.1 being the son of Kali Pada Chakraborty and the plaintiff No.2 was entitled to 50 per cent of the family pension till his attaining the age of 25 years. The only contention of learned counsel, Ms. S. Deb Gupta is that he will be entitled to such pension only with effect from 22<sup>nd</sup> November, 2012 and not before.

**6.** I find no legal force in the submission of learned counsel Ms. S. Deb Gupta. The ratio of the judgment in WP(C) 450 of 2014 was on a different context and is not applicable in the facts of this

case. Therefore, I find no merit in the second appeal and the second appeal is accordingly stand dismissed.

**7.** Send back the L.C records along with the copy of this judgment.

**JUDGE**

*Sohanjit*