

THE HIGH COURT OF TRIPURA
A G A R T A L A

MFA(WC) No. 05 of 2011

MFA(WC) No. 07 of 2011

(A) In MFA(WC) No. 05 of 2011.

Appellants :

- 1. Sri Subrata Saha,**
S/o. Sri Manindra Saha of Sreenagar Badharghat.
- 2. Smt Madhabi Roy(Saha),**
W/o. Sri Pradip Roy of 1, Nrishingha Datta Road,
Barisha, Kolkata-700008.
- 3. Smt. Kalpana Saha,**
W/o. Sri Manindra Ch. Saha of Badharghat,
Sreepalli, Agartala.
- 4. Jagannath Plastic Industries,**
A. D. Nagar, Agartala.

By Advocates :

Mr. P. Dutta, Adv.
Mr. G. Debbarma, Adv.

Respondent :

Sri Chandan Das (Minor),
S/o. Sri Tarani Kanta Das
Of Siddhi Ashram, P.S-Amtali,
District-West Tripura.
(Being minor represented by his father)

By Advocates :

Mr. S. Deb, Sr. Adv.
Mr. R. Dasgupta, Adv.

(B) In MFA(WC) No. 07 of 2011.

Appellant :

Sri Chandan Das,
S/o. Sri Tarani Kanta Das,
R/o-Siddhi Ashram, P.S-Amtali,
West Tripura.

By Advocates :

Mr. S. Deb, Sr. Adv.
Mr. R. Dasgupta, Adv.

Respondents :**1. Sri Subrata Saha,**

S/o. Sri Manindra Saha, R/o-Srinagar
Badharghat, P.O-Badharghat, P.S-West Agartala,
West Tripura.

2. Smt Madhabi Roy(Saha),

W/o. Sri Pradip Roy of 1, Nrishingha Datta Road,
Barisha, Kolkata-700008.

3. Smt. Kalpana Saha,

W/o. Sri Manindra Ch. Saha of Badharghat,
Sripalli (Near Ramthakur College) P.S-West
Agartala, West Tripura.

4. Jagannath Plastic Industries,

A. D. Nagar, Industrial Estate, West Tripura,
Agartala.

By Advocates :

Mr. P. Dutta, Adv.

Mr. G. Debbarma, Adv.

B E F O R E
THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **6th October, 2015.**

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

These two appeals are being disposed of by a common judgment since they arise out of one award.

[2] The appeal being MFA (W.C) No.05 of 2011 filed by the appellants for reduction of the amount of compensation is directed against the award dated 26.02.2011 passed by the learned Commissioner, Workmen's Compensation, West Tripura, Agartala in case No.

T.S. (W.C) 30 of 2007, whereby he awarded a sum of Rs.82,274 to the claimant along with interest @ 6% p.a and further ordered that if the amount of compensation is not deposited within 30(thirty) days then the interest would be 12% p.a. whereas the appeal being MFA (W.C) No.07 of 2011 has been filed by the claimant(Sri Chandan Das) for enhancement of the aforesaid compensation.

[3] The admitted facts are that the claimant(Sri Chandan Das) was employed with the employer-respondent No.1 working on a machine. He was only about 15 years at the time of accident and claimed that his income was Rs.2500/- per month.

[4] The owner stepped into the witness box and stated that the wages being paid to the petitioner was only Rs.40/- per day and that he had only been required to pay from 2.5.2006 to 23.5.2006. The stand of the owner was that the claimant unauthorisedly tries to operate the machine during lunch hour.

[5] The learned Commissioner, Workmen's Compensation did not believe this fact though it accepted the statement of the owner that the income was only Rs.40/- per day.

[6] The learned Commissioner assessed the disability at 30% whereas the disability certificate was only for 2% and compensation has been awarded by taking the disability at 30%. To satisfy myself I had directed the petitioner to appear in person in Court and on 3.9.2015 I had noted as follows:

"The petitioner was called in person and I have seen him. I find that on his right hand Ring finger is amputated and the first phalanx is gone. I also find that the tip of the middle and little fingers are missing."

What I found was that the Ring finger of the claimant was amputated to the extent of the extent of the one phalanx and this would mean disability of 5%. I also found that the tip of the middle and little fingers are missing and this would be disability of 4% and 2% respectively. The combined disability would only 11%.

[7] In case of total disablement as per the Workmen's Compensation Act, 1923 (Now, Employee's Compensation Act, 1923) 60% of the monthly wages of the injured have to be multiplied by the relevant factor. At the relevant time minimum wages for unskilled worker was Rs.1,226/- per month and I accept this to be the wages of injured workman. The age of the claimant was 15 years at the relevant time. Therefore, the relevant factor will be 228.55. Thus, the compensation works out to (Rs.1226 x 60% x 228.55 = 1,68,121.35 x 11%) Rs.18,493.35/- which is rounded off to Rs.18,500/-. Accordingly, the award of the learned Commissioner, Workmen's Compensation is reduced from Rs. 82,274/- to Rs.18,500/-. On this amount, the claimant is also entitled to interest @12% per annum from the date of incident i.e. 23.05.2006 till payment/deposit of the amount in the Registry of this Court after adjusting/deducting the amounts, if any, by the appellants in MFA(W/C) No.05 of 2011 within four months from today.

[8] In view of the above, the appeal (MFA(W/C) No.05 of 2011) filed by the appellants for reduction of the amount of compensation is allowed in the aforesaid terms.

Consequently, the appeal (MFA(W/C) No.07 of 2011) filed by the claimant Sri Chandan Das for enhancement of compensation is dismissed. No order as to costs.

Send down the LCRs forthwith.

CHIEF JUSTICE