

THE HIGH COURT OF TRIPURA

AGARTALA

CRP 15 of 2009

Smt. Charubala Debnath

W/O late Umesh Chandra Debnath

D/O late Naresh Chandra Debnath

Resident of village- Jambura, P.O.- Office Tilla,

P.S.- Khowai, District- West Tripura.

.... **Petitioner.**

VERSUS

1. The State of Tripura

Represented by the Secretary,

To the Government of Tripura, Agartala

Public Works Department (P.W.D.), Agartala.

2. The Executive Engineer

Public Works Department, Circle-IV,

Government of Tripura,

Netaji Chowmuhani Complex, Agartala.

3. Sri Swaraj Sarkar

S/O late Jitendra kumar Sarkar

Resident of Haradhan Sangha, Lake Road,

Krishnanagar, Agartala,

P.S.- West Agartala, District- West Tripura.

.... **Respondents**

BEFORE

THE HON'BLE MR. JUSTICE U.B. SAHA

For the petitioner : Mr. D.Bhattacharji, Advocate

For State respondents : Mr. TD Majumder GA

For respondent no.3 : None.

Date of hearing and : 21.09.2015.
delivery of judgment.

Whether fit for reporting : YES / NO

JUDGMENT & ORDER(ORAL)

The instant revision petition is filed challenging the order dated 01.04.2006 passed by the learned Commissioner, Workmen's Compensation in Civil Misc. 139 of 2005 arising out of T.S. (W.C) 27 of

2005 wherein the learned Commissioner, Workmen's Compensation rejected the prayer for condonation of delay of 1 year 7 months 13 days in preferring the claim petition in case No. T.S.(W.C) 27 of 2005, as the delay was not properly explained.

2. In brief, the case of the petitioner is that her son Swapan Debnath aged about 22 years died in an accident on 28.09.2001 in course of his employment under the respondent No.3 Sri Swaraj Sarkar as a worker. Her son was engaged by the respondent No.3 who is a contractor for giving water in the constructed building at New Capital Complex, Agartala. On 28.09.2001 at about 10.00 a.m when he was giving water at the constructed building at Khejur Bagan, Agartala suddenly he was electrocuted and died. The petitioner time and again approached the respondents for compensation but inspite of giving assurance the respondents did not give any compensation to her. Accordingly she preferred the claim petition in case No. T.S.(W.C) 27 of 2005 along with the application for condonation of delay of 592 days in preferring the said case.

3. In order to explain the said inordinate delay in preferring the suit, as stated above, the petitioner in her application for condonation of delay stated that due to extreme poverty and lack of knowledge of proceedings in preferring the claim petition she could not prefer the said suit for compensation.

4. The respondents have also contested the application filed by the petitioner for condoning the delay. The respondent No.3, Sri Swaraj Sarkar alleged to be the employer of the deceased son of the petitioner

specifically stated that the deceased son of the petitioner was never engaged by him as a worker and he has never executed any contract or construction of quarters building of respondent No. 1 and 2 at New Capital Complex.

5. The learned Commissioner, Workmen's Compensation while contesting the application for condonation of delay not only examined the reasons for condonation of delay but also discussed *inter alia* that:-

“On careful perusal of the record along with the record of T.S.(W.C) 27/05 it is found that no document is submitted on behalf of the petitioner to show that her deceased son Swapan Debnath was a worker under the OP no.3 Sri Saraj Sarkar and no scrap of paper is submitted from the side of the petitioner to show that her son Swapan Debnath died out of electrocution on 28.09.2001 and she approached the opposite parties at any point of time after the death of her son claiming compensation. No document is also submitted on behalf of the petitioner to show that she is a poor lady”

6. The learned Commissioner, Workmen's Compensation also considered the provisions of Section 10 of the Workmen's Compensation Act and held that no notice is given to the opposite parties by the petitioner in compliance of the provisions of Section 10(1) of the Workmen's Compensation Act and accordingly rejected the prayer for condonation of delay.

7. Mr. D.Bhattacharji, learned counsel appearing for the petitioner submits that issuance of notice under Section 10(1) of the Workmen's Compensation Act is not mandatory but he fails to satisfy this Court regarding the reasons for delay.

8. On the other hand, Mr. TD Majumder, learned Government Advocate while supporting the order of the learned Commissioner, Workmen's Compensation would contend that the petitioner never

produce any document showing that her son was engaged by the respondent No.3 and not only that even no scrap of paper was submitted to show that her son Swapan Debnath died out of electrocution on 28.09.2001. He further submits that except ignorance and poverty the petitioner did not state any reason for causing delay in preferring the application under Workmen's Compensation Act.

9. Considering the submission of learned counsel appearing for the parties and on perusal of the impugned order, this Court is of considered opinion that the learned Commissioner, Workmen's Compensation did not commit any wrong while rejecting the prayer for condonation of delay rather he has given detailed reasons for rejecting the application for condonation of delay.

10. In view of the above discussion, the instant revision petition is dismissed. No order as to costs.

JUDGE

Saikat