

THE HIGH COURT OF TRIPURA

AGARTALA

MFA(WC) No. 09 of 2009

Claimant-Appellants :

- 1. Smti Mousumi Das (Debnath),**
W/o. Late Nirmal Debnath, Resident of
Village-Baishnab Tilla, Amtali, Agartala,
District-West Tripura.
- 2. Smti Kana Bala Debnath,**
W/o. Sri Sankar Debnath.
- 3. Sri Sankar Debnath,**
S/o. Late Sachindra Debnath, Both are
residents of village-Hapania, Amtali,
Agartala, District-West Tripura.

By Advocate :

Mr. B. Debnath, Adv.

Opposite party-Respondents :

- 1. Sri Bikram Saha,**
S/o. Sri Sasanka Saha, Resident of Vill-Milan
Chakra, A. D. Nagar, Agartala, District-West
Tripura.
(Employer and Owner of vehicle No. TR-01C-
1811).
- 2. The Divisional Manager,**
National Insurance Company Ltd., Akhaura
Road, Agartala, West Tripura.

By Advocate :

Mr. D. K. Biswas, Adv.

B E F O R E

THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **17th March, 2015.**

Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER (ORAL)

This appeal for enhancement of compensation has been filed by the claimant-appellants is directed against the award dated 2nd March, 2009 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.3,01,349/- in favour of the claimant-appellants.

[2] The short question involved in this appeal is whether the compensation has been properly assessed by the Commissioner, Workmen's Compensation.

[3] The claimant in the claim petition alleged that her husband i.e. the deceased was earning Rs.4,500/- per month as wages while working as a helper/labourer popularly known as assistant in the vehicle in question which met with an accident.

[4] The owner also in his reply stated that he had engaged the deceased as a labourer at the rate of Rs.120/- per day plus food allowance of Rs.30/- per day which would mean Rs.150/- per day. However, it is important to note that in the FIR which was initially lodged by the brother of the deceased it was mentioned that his younger brother was a driver by profession and that he had boarded the center truck by taking a lift. There is no allegation in that FIR that the deceased was a workman. I am not going to this aspect of the matter because the insurance company has not filed any appeal. However, in view of these averments it is very difficult to accept the statement of the owner of the vehicle that the deceased was his employee and working as a labourer. A person who has a driving licence would not work as a labourer.

[3] In any event, the assessment of wages is a pure finding of fact and no error of law much lesser substantial error of law has been pointed out

to me. Therefore, I find no merit in the appeal which is accordingly dismissed. No order as to costs.

Send down the LCRs forthwith.

CHIEF JUSTICE