

THE HIGH COURT OF TRIPURA
AGARTALA

MFA(WC) NO. 14 OF 2009

1. Smti. Milan Nag,
W/O. Late Sudha Bhusan Nag,
2. Sri Ratan Nag,
S/O. Late Sudha Bhusan Nag,
Both are residents of—
Vill.-Adharsha Colony, Jogendranagar,
P.S.-East Agartala,
District-West Tripura.

..... **Appellants-Claimants.**

- V e r s u s -

1. Sri Dipangshu Saha,
S/O. Sri Dipak Chandra Saha,
C/O. Madhu Sudhan Saha,
Resident of Gandhighat,
P.S.-West Agartala,
District-West Tripura.
2. National Insurance Company Ltd.,
(to be represented by the Divisional Manager),
Divisional Office at Akhaura Road,
Agartala, West Tripura.

..... **OPs-Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellants : Mr. M.K. Roy, Advocate.

For the respondent No.2 : Mr. D.K. Biswas, Advocate,
Mr. G.K. Nama, Advocate.

Date of hearing and : 06.02.2015.
delivery of judgment
and order.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER(ORAL)

Heard learned counsel for the parties.

2. This appeal is directed against the award dated 10-06-2004 passed by the learned Commissioner, Workmen's

Compensation, West Tripura, Agartala in case No.T.S.(WC) 59 of 1999 whereby he rejected the claim petition on the ground that death of the deceased had no causal connection with his employment.

3. This issue has to be decided on the basis of evidence led by the parties. Unfortunately, before the Commissioner both the parties have led no direct evidence in this regard. As far as the claimant is concerned, only the son of the claimant has appeared who was not an eye witness to the occurrence when the deceased died. On the other hand, the Insurance Company has relied upon the FIR and the postmortem report. Postmortem report may be admissible even without formal proof in proceedings like this because it is issued by a Government doctor but an FIR is a statement of a person recorded by the police under section 154 of Cr.P.C. and unless that person is examined to prove the statement, the mere production of an FIR is not sufficient to prove the contents of the FIR. Furthermore, even in cases where there is no accident if it can be established that the deceased died due to some disease which was aggravated by his employment, then also the heirs of the deceased may be entitled to compensation.

4. I am not purposely going into a detailed discussion because I am clearly of the view that the matter should be remanded to the Commissioner, Workmen's Compensation who

should permit both the parties to lead evidence to show how the deceased died and whether his death had any causal connection with his employment.

5. The appeal is disposed of accordingly. No order as to costs.

6. The parties are directed to appear before the learned Commissioner, Workmen's Compensation on 11-03-2015 and thereafter, the Commissioner shall try to dispose of the matter as early as possible and in any event, not later than 31-12-2015.

7. Send down the lower court records forthwith.

CHIEF JUSTICE