

THE HIGH COURT OF TRIPURA
AGARTALA

MFA(WC) NO. 23 OF 2009

Sri Harekrishna Pal,
S/O, Late Rajendra Kumar Pal,
Resident of Nalgaria,
P.S.-Ranir Bazar,
District-West Tripura.

..... **Appellant.**

- V e r s u s -

1. Smti. Chhaya Debnath,
W/O. Late Nagendra Debnath,
 2. Smti. Mani Debnath,
D/O. Late Nagendra Debnath,
- Both residents of Nalgaria,
P.S.-Ranirbazar,
District-West Tripura.

..... **Claimant Respondents.**

3. The Divisional Manager,
Oriental Insurance Company Ltd.,
Kaman Chowmuhani, Agartala,
District-West Tripura (Insurer).
4. Sri Dulal Debnath alias Deban Debnath,
S/O. Sri Amulya Debnath,
Of Village-Purba Noagaon,
P.O. Noagaon, P.S. Ranirbazar,
District-West Tripura (Driver).

..... **Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : Mr. A.K. Bhowmik,
Sr. Advocate,
Mr. R. Dutta, Advocate.

For the respondent Nos.1 & 2 : Mr. T.D. Majumder,
Advocate.

Date of hearing and : 25.02.2015.
delivery of judgment
and order.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER(ORAL)

This appeal by the employer is directed against the award dated 18-07-2009 passed by the learned Commissioner, Workmen's Compensation, West Tripura, Agartala in case No. T.S.(WC) 13 of 2007 whereby he held the claimants entitled to compensation of Rs.3,30,205/- but held the appellant-employer liable to pay the said compensation.

2. The main question of law which arises in this appeal is whether the Insurance Company was rightly exonerated of its liability to pay compensation.

3. It is not disputed that the appellant is the owner of the rice mill in which the deceased was employed. The appellant was also the owner of the motor vehicle which is a three wheeler auto rickshaw modified to be used for carriage of goods in which the rice from the rice mill was transported. The case of the parties was that the deceased who was an employee of the owner of the vehicle who also happened to be owner of the rice mill was accompanying the vehicle for purposes of loading and unloading the same when the rice bags were being carried in the said vehicle.

4. The learned Commissioner held that the deceased may have been the owner of the rice mill and also not the owner of the vehicle but the deceased was not an employee of the vehicle. The whole concept is wrong. The deceased was neither

the employee of the rice mill nor an employee of the motor vehicle. He was an employee of the appellant. A person can only be an employee of a juristic person and not of an inanimate object. He may not have been employed on the vehicle directly but the fact was that he was travelling in the goods vehicle for purposes of loading and unloading the goods. Therefore, in my considered view, he died during the course of employment.

5. Assuming for the sake of argument that he was not employed on the vehicle. That would make no difference because then he would be the representative of the owner of the goods travelling along with the goods in which case also the Insurance Company would be liable.

6. I am, therefore, of the considered view that the learned Commissioner wrongly exonerated the Insurance Company and the entire liability to pay the compensation shall be on the Oriental Insurance Company Limited, i.e. the respondent No.3.

7. It would be pertinent to mention that the respondent No.3 was duly served as per the report and did not appear and hence, the case has to be decided in its absence.

8. With these observations, the appeal is disposed of.
Send down the lower court records forthwith.

CHIEF JUSTICE