

THE HIGH COURT OF TRIPURA
AGARTALA

MFA (W/C) 04 of 2011

1. Smt. Khilingti Debbarma alias Chandra
W/O. Lt. Prabitra Debbarma.
2. Miss. Anisha Debbarma
D/O. Late Prabitra Debbarma.
3. Smt. Khilingti Debbarma
W/O. Sibjoy Debbarma.
4. Sri Sibjoy Debbarma
S/O. Lt. Mangal Chandra Debbarma.
All of Rashiramthakur Para, Bankumari,
P.O. Tripura Engineering College i.e. NIT,
P.S. Jirania, District – West Tripura.

..... *Appellants.*

- Vs. -

1. Sri Rajani Debbarma
S/O. Sri Samprai Debbarma,
Of Harishthakur Road, Krishnanagar,
P.S. West Agartala,
District – West Tripura.
(Owner of the vehicle No.TR01-F-0399, Maruti Van).
2. The Divisional Manager,
National Insurance Company Limited
Of 42 Akhaura Road, Agartala,
West Tripura.
(Insurer of the Vehicle No. TR01-F-0399
- Maruti Van).

..... *Respondents*

BEFORE

HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellants : Mr. U.K. Majumder, Advocate.

For the respondent : Mr. P. Gautam, Advocate,
No.2.

Date of hearing & : 27.04.2015.
delivery of

Judgment & order.

Whether fit for reporting : No.

JUDGMENT & ORDER (ORAL)

This appeal arises out of the award of Commissioner, Workmen's Compensation whereby, compensation of Rs.1,61,460/- has been awarded to the claimants.

2. The claim-petitioners are the widow, minor daughter and parents of the deceased. The learned Commissioner assessed the income of the deceased at Rs.1,500/- per month, assessed the dependency at 50% and then applied the relevant factor as per Schedule IV of the Act and assessed the compensation at Rs.1,61,460/-.

3. The main question is whether the income of the deceased has been rightly determined. The widow claimed that her husband was earning Rs.5,000/- per month and at the time of his death he was 30 years of old. There is no proof either of the income or of the age. However, since the widow was about 25 years, the age can reasonably be taken to be 30 years. As far as income is concerned, I am of the considered view that the learned Commissioner gravely erred in limiting the income at Rs.1,500/-. Even in the year 2003, a driver would not earn less than Rs.100/- per day and it would not be unreasonable to assess his income at Rs.3,000/- per month and the compensation is assessed

accordingly. 50% of Rs.3,000/- works out to Rs.15,000/-.
Rs.3,000/- x 50% x relevant factor 207.99. The compensation
therefore works out to **Rs.3,11,970/-** (Rupees Three lacs eleven
thousand nine hundred seventy).

4. On this amount, the claimant shall also be entitled to
interest @ 12% per annum from the date of accident till
deposit/payment of the entire amount. Obviously, the insurance
company shall be entitled to adjust the amount already paid by it.

5. In this case, in fact, there is no evidence to suggest
that the parents were dependant on the deceased. However, since
the award of the Workmen's Compensation has not been
challenged on that count, I am limiting their claim to the amount
awarded to them by the Workmen's Compensation. The enhanced
amount shall be paid to the widow Smt. Khilingti Debbarma and
minor daughter Miss Anisha Debbarma in equal shares. This
amount shall be deposited with the Commissioner, Workmen's
Compensation within a period of 8 (eight) weeks from today, who
shall deal with this amount strictly in accordance with the provision
of Section 8 of the Workmen's Compensation Act.

6. Send down the LCRs forthwith.

CHIEF JUSTICE

sima