

THE HIGH COURT OF TRIPURA
AGARTALA

MFA(WC) NO. 19 OF 2008

Sri Gopal Das,
S/O, Late Rajani Kanta Das,
Resident of Vill.-Dukli,
P.S.-West Agartala,
Dist.-West Tripura.

..... **Claimant-Appellant.**

- V e r s u s -

1. Sri Dulal Krishna Nath,
S/O. J.K. Nath, resident of
Jail Ashram Road,
P.S.-East Agartala,
Dist.-West Tripura.
(owner of truck vehicle bearing No.TRL 3712)
2. The New India Assurance Company Ltd.,
Agartala Branch, represented by its
Divisional Manager, Divisional Office at
Hari Ganga Basak Road, Agartala,
P.S.-West Agartala, Dist.-West Tripura.

..... **O.P.-Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant	: Mr. S.K. Dutta, Advocate.
For the respondent No.1	: Mr. M. Nath, Sr. Advocate, Mr. D.C. Roy, Advocate.
For the respondent No.2	: Mr. P.K. Dhar, Advocate, Mr. P. Gautam, Advocate.
Date of hearing and delivery of judgment and order.	: 09.01.2015.
Whether fit for reporting	: NO.

JUDGMENT & ORDER(ORAL)

This appeal is directed against the award dated 14-
05-2008 passed by the learned Commissioner, Workmen's

Compensation, West Tripura, Agartala in case No. T.S.(WC) 12 of 2006 whereby he rejected the claim petition filed by the claimant under sections 4, 4A and 22 of the Workmen's Compensation Act, 1923 only on the ground that since the claimant had not examined any doctor, he was not entitled to any compensation.

2. I have heard Sri S.K. Dutta, learned counsel for the appellant, Sri M. Nath, learned Sr. Counsel, and Sri D.C. Roy, learned counsel, for the respondent No.1 and also Sri P.K. Dhar and Sri P. Gautam, learned counsel for the respondent No.2.

3. I am clearly of the view that in a case like the present one where the claimant was a driver of the truck, the Commissioner should have given one more opportunity to the claimant to put forth his case. It is true that the learned Commissioner gave opportunity to the claimant to adduce evidence on 23-04-2007 when the evidence was closed by learned counsel for the claimant. As such, the Commissioner was not in fault but keeping in view the larger interest of justice, I feel that the claimant, if otherwise entitled to compensation, should not be denied the benefit of compensation only on the ground that the doctor has not been examined.

4. Therefore, the award of the learned Commissioner is set aside and the matter is remanded to the Commissioner,

Workmen's Compensation, West Tripura, Agartala with the following directions:-

(i) The parties who are present shall appear before the learned Commissioner on 04-02-2015;

(ii) On the said date, the Commissioner shall fix one date in the month of March, 2015 for production of the medical evidence by the claimant;

(iii) Since a long time has elapsed, the claimant on or before 04-02-2015 shall clearly indicate who are the witnesses whom he wants to summon for the next date. He may, if he so desires, take the assistance of the Court by issuing process to the witnesses but he shall ensure by taking 'dasti' summons that the witnesses are duly served and it will be his responsibility to serve the witnesses;

(iv) The evidence of the doctor shall be recorded in Court and the Commissioner shall satisfy what were the injuries sustained at the time of accident and what is the disability, if any arising out of the injuries, sustained at the time of the accident out of which this petition arises and assess the compensation, if any, accordingly;

(v) In case, the final award goes in favour of the claimant, the Commissioner shall decide whether the claimant is

entitled to interest for the period during which this appeal was pending due to the fault of the claimant.

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

CHIEF JUSTICE