

THE HIGH COURT OF TRIPURA
AGARTALA

WP(C) 342 OF 2013

Smti. Pinki Debbarma,
W/O. Sri Nibesh Debbarma,
resident of Advisor Chowmohani,
Krishnanagar, PS- West Agartala,
PO & Sub-Division- Agartala,
District- West Tripura.

..... **Petitioner.**

- V e r s u s -

1. Tripura State Electricity Corporation Ltd.,
Bidyot Bhavan, Bhutoria,
P.O. & Sub-Division- Agartala,
District- West Tripura, Tripura;
represented by its Chairman-cum-
Managing Director.
2. Chairman-cum-Managing Director,
Tripura State Electricity Corporation Ltd.,
Bidyot Bhavan, Bhutoria,
P.O. & Sub-Division-Agartala,
District-West Tripura, Tripura.
3. General Manager (Finance),
Tripura State Electricity Corporation Ltd.,
Bidyot Bhavan, Bhutoria,
P.O. & Sub-Division-Agartala,
District- West Tripura, Tripura.
4. Deputy General Manager,
Tripura State Electricity Corporation Ltd.,
Division No.-I, Banamalipur,
P.O. & Sub-Division-Agartala,
District- West Tripura, Tripura.
5. Executive Engineer, GPF, Pension etc.,
Department of Power, West District,
Banamalipur, P.O. & Sub-Division-Agartala,
District-West Tripura, Tripura.
6. Smti. Rinki Debbarma,
Wife of Shri Prabal Krishna Debbarma,
resident of Banamalipur,
Opposite of Sanjibani Nursing Home,
P.O. & Sub-Division- Agartala,
District- West Tripura, Tripura.

- 7(a). Smti. Ratna Debbarma,
Wife of Shri Sudhir Debbarma,
Ujjan Abainagar (New Modern Village),
Near Ujjan Abhoynagar Bridge,
PO- Abhoynagar, Sub-Division-Agartala,
District- West Tripura,
Pin- 799005.
- 7(b). Smti. Swapna Debbarma,
Wife of Shri Dhiman Debbarma,
Lalbahadur Chowmohani,
Near Sanjibani Nursing Home,
Banamalipur, PO & Sub-Division-Agartala,
District- West Tripura, Pin-799001.
- 7(c). Smti. Alaka Debbarma,
Wife of Shri Amal Debbarma,
Banamalipur, West Bank of
Girls Bodhjung School Dighi,
PO & Sub-Division-Agartala,
District-West Tripura, Pin-799001.
- 7(d). Smti. Ganga Debbarma,
Wife of Shri Sukhendu Bikash Debbarma,
Krishnanagar, Advisor Chowmohani,
Buri Pukur Par, PO & Sub-Division-Agartala,
District-West Tripura, Pin-799001.
- 7(e). Smti. Snehalata Debbarma (Sarkar),
Wife of Late Pradip Debbarma,
C/O. Late Sanarjit Debbarma,
Lalbahadur Chowmohani,
Near Sanjibani Nursing Home,
Banamalipur, PO & Sub-Division-Agartala,
District-West Tripura, Pin-799001.
- 7(f). Shri Rajesh Debbarma,
Son of Late Pradip Debbarma,
C/O. Late Sanarjit Debbarma,
Lalbahadur Chowmohani,
Near Sanjibani Nursing Home,
Banamalipur, PO & Sub-Division-Agartala,
District-West Tripura, Pin-799001.
- 7(g). Smti. Rakhi Debbarma,
Daughter of Late Pradip Debbarma,
C/O. Late Sanarjit Debbarma,
Lalbahadur Chowmohani,
Near Sanjibani Nursing Home,
Banamalipur, PO & Sub-Division-Agartala,
District-West Tripura, Pin-799001.

Being minor, represented by her natural guardian, mother, the respondent-OP No.7(e).

- 7(h). Smti. Minakshi Debbarma,
Daughter of Late Pradip Debbarma,
C/O. Late Sanarjit Debbarma,
Lalbahadur Chowmohani,
Near Sanjibani Nursing Home,
Banamalipur, PO & Sub-Division-Agartala,
District-West Tripura, Pin-799001.

Being minor, represented by her natural guardian, mother, the respondent-OP No.7(e).

- 7(i). Smti. Archana Debbarma (Banik),
Wife of Late Binoy Debbarma,
C/O. Late Sanarjit Debbarma,
Lalbahadur Chowmohani,
Near Sanjibani Nursing Home,
Banamalipur, PO & Sub-Division-Agartala,
District-West Tripura, Pin-799001.

..... **Respondents.**

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE U.B. SAHA**

For the petitioner : Mr. S. Lodh, Advocate.

For the respondents 1 to 5 : Mr. P. Chakraborty, Advocate.

For the respondent 7(h) : Ms. A. Banik, Advocate.

Date of hearing and
delivery of judgment
and order : 09.07.2015.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER(ORAL)

(Deepak Gupta, C.J.)

By means of this petition, the petitioner has prayed that the respondents be directed to pay her share of the death-

cum-retirement benefits payable in respect of her father Lt. Sri Sudip Debbarma.

2. The undisputed facts are that Lt. Sri Sudip Debbarma was serving as Senior Lineman under the respondent Tripura State Electricity Corporation Limited (hereinafter referred to as "TSECL"). Unfortunately, Sri Sudip Debbarma expired on 07.5.2012. It is not disputed that Sri Sudip Debbarma left behind the following legal heirs:-

- (i) Smti. Pinki Debbarma, W/O. Sri Nibesh Debbarma (daughter);
- (ii) Smti. Rinki Debbarma, W/O. Sri Prabal Krishna Debbarma (daughter); and
- (iii) Smti. Parul Debbarma, mother of the deceased.

3. The mother has also died during pendency of the writ petition. Immediately after the death of her father, the petitioner sent communications to the employer, i.e. the TSECL that she is also entitled to 1/3rd of the amount payable on account of the death of the deceased. It is not disputed that the TSECL has made the following payments:-

- (i) Group Insurance: - Rs.1,50,000/- paid to Smt. Rinki Debbarma;
- (ii) Savings Fund amounting to Rs.23,848/- paid to Smt. Rinki Debbarma;
- (iii) DCRG amounting to Rs.4,00,000/-, out of which Rs.3,00,000/- paid to Smt. Parul Debbarma;

(iv) Cash payment in lieu of unutilized leave:-
Rs.27,689/- (not disbursed).

4. The respondents along with their reply have only relied upon one nomination made by the deceased and that nomination is under the Group Insurance Scheme and Smt. Rinki Debbarma has been nominated to receive 100% of the amount payable under the scheme. Therefore, as far as the amount of Group Insurance is concerned, that has rightly been paid by the employer to Rinki Debbarma. In case, the petitioner has any dispute with regard to this amount, the petitioner can file civil suit claiming the said amount from Rinki Debbarma.

5. With regard to the other amounts payable, there is no nomination on the record of the TSECL. As far as gratuity is concerned, payment of the same to a nominee is governed by Rule 53 of the CCS (Pension) Rules and nominations have to be made in terms of sub-rule (1) of Rule 53. In case, there is no nomination made then all the legal heirs are entitled to the nomination as per their shares in accordance with law. Similarly, with regard to GPF, nomination has to be made in accordance with rule 5 of the GPF rules and if nomination is not made then the amount is payable to all the legal heirs. Even with regard to commutation of pension and all other benefits, nomination must be made as per rule 7 of the Commutation of Pension Rules or all the legal heirs are entitled to the same.

6. Nomination is not a bequest. By making a nomination all that the employee does is to ensure that the nominee is paid the amount by the Insurance Company, employer, as the case may be, but the nominee holds the money in trust for all the legal heirs who may be entitled under the will of the deceased, if a will has been executed and as per the ordinary law of succession if the deceased dies intestate. We fail to understand how the TSECL made payments to the mother and the other sister of amounts other than the amount payable under the Group Insurance Scheme when there was no nomination. The Corporation should have made the payments to all the legal heirs in equal shares.

7. We, therefore, dispose of the petition with the following directions:-

(i) As far as the amount payable under the Group Insurance Scheme is concerned, the petitioner may establish her right by filing a separate suit in a Court of law.

(ii) As far as other payments are made, the TSECL has made these payments without any nomination and, therefore, after calculating all the amounts payable, it shall pay 1/3rd of the amount payable to all the legal heirs to the petitioner along with interest @ 9% per annum from today on or before 30.11.2015.

8. In case, the TSECL has already paid the full amount or has paid more than their share to the mother Smti. Parul Debbarma and the other sister Smti. Rinki Debbarma, then also it is required to pay the amount to the petitioner as per her share

and the Corporation may take steps to recover the excess amount, if any, paid from Smt. Parul Debbarma/her heirs or Smt. Rinki Debbarma in accordance with law.

9. With these observations, the petition is disposed of. No order as to costs.

JUDGE

CHIEF JUSTICE