

THE HIGH COURT OF TRIPURA
AGARTALA

MFA (W/C) 13 of 2015

Divisional Manager,
National Insurance Company Ltd.
Akhaura Road, P.S. West Agartala,
District – West Tripura.

..... *Appellant.*

- Vs. -

1. Smti. Pratima Talukder
W/O. Late Rupan Talukdar.
2. Shri Suman Talukder
S/O. Late Rupan Talukdar.
3. Miss Tuli Talukder
D/O. Late Rupan Talukdar.
4. Shri Subrata Talukder
S/O. Late Rupan Talukdar.

All are residing at Rajnagar, Palpara,
P.O. South Radhanagar, P.S. P.R. Bari,
District – South Tripura.

5. M/S. N.G. Bhattacharjee Construction
Company, 33 Office Lane, Agartala,
P.S. West Agartala, District – West Tripura.

..... *Respondents.*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the appellant : Mr. A. Nandi, Advocate.

For the respondent : Mr. S. Adhikari, Advocate,
No.5.

Date of hearing & : 03.08.2015.
delivery of
Judgment & order.

Whether fit for : No.
reporting

JUDGMENT & ORDER (ORAL)

The only issue involved in this appeal filed under the Employees' Compensation Act is whether the learned Tribunal was right in taking the income of the deceased at Rs.7,500/- per month.

2. According to the Insurance Company, the insured M/S N.G. Bhattacharjee Construction Company had paid premium for coverage of the employees by showing the total payment of wages to 12 employees at Rs.3,45,600/- which works out to Rs.2,400/- per month per employee.

3. It is contended by Mr. A. Nandi, learned counsel that since the premium was paid by showing the wages on the lower side, lesser premium was charged and hence, the insurance company cannot be burdened with compensation by assessing it at Rs.7,500/- per month.

4. I am unable to accept this contention made on behalf of the insurance company. It is for the insurance company at the time when it issues the policy to verify what are the wages being paid by the employer. It can

check the books of the employer, keep copies thereof with the insurance company and then it can have evidence to produce before the Tribunal that these were the wages reflected in the muster roll or in the wage register of the employer. If the insurance Company issues policies without verifying whether the insured has stated true facts or not, then third parties especially legal heirs of workman who die in an accident cannot suffer because of the negligence of the officials of the insurance company.

5. The next submission of Mr. Nandi, learned counsel is that the un-exhibited document issued by the employer regarding the pay of the deceased has been taken into consideration.

6. In Proceeding before the Workmen's Compensation Act, strict rules of evidence are not applicable. In any event, the insurance company did not object to the exhibiting of the said document at the time of trial. It did not even take the pains of summoning the employer or the record of the employer to show what were the actual wages being paid by it. When the insurance company has taken no steps to summon the employer, the

letter of the employer sent to the claimants is a valid piece of evidence and therefore, could be looked into.

7. No question of law, much less a substantial question of law arises in this petition. Findings of fact cannot be challenged in an appeal under the Employees' Compensation Act.

8. Therefore, I find no merit in this appeal, which is accordingly dismissed.

CHIEF JUSTICE

Sabyasachi ghosh / sima