

23 03.04.2025

Ct-08

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FMAT(WC) 7 of 2025

with

IA No. CAN 1 of 2025

The Oriental Insurance Company Limited

Vs.

Archana Karmakar & Ors.

Mr. Ananda Gopal Mukherjee
... For the Appellant

Mr. Biplab Guha
Mr. Subrata Das Gupta
... For the State

1. The original claimant suffered severe fracture on his scalp and ultimately succumbed to death during the pendency of the claim petition and is substituted by his wife Smt. Archana Karmakar. The Insurance Company in this appeal has raised a dispute with regard to the employer and employee relationship between Jhantu Kumar Karmakar and Purna Chandra Saha, who claimed to be the owner of the vehicle which the Jhantu was driving at the time when the accident occurred.

2. We have carefully read the evidence as well as the impugned order. Learned Trial Court relying upon the Exhibit-6 arrived at a finding that the employer and employee relationship was established. Purna Chandra Saha although was served notice did not file any written objection to the claim petition as he denied in his evidence to have filed a written objection alleged to have been

affirmed by a person claimed to be his authorized representative. Shri Saha did not accept it to be his written objection. At the same time he did not file any written objection after being served with a notice. He did not even prayed for time to file any such objection. Initially, one Swapan Raha deposed on behalf of Purna Chandra Saha as his authorised representative where he had clearly stated that Purna Chandra Saha was the owner of the vehicle in question and Jhantu Karmakar was employed as driver of the said vehicle that had made an accident on 22.11.2005. Subsequently, Purna Chandra Saha surfaced and deposed that he never authorised Swapan Raha to depose on his behalf. In the cross-examination he has stated that he has not filed any written statement nor anyone has been authorised to appear on his behalf. However, the reason for not contesting the said proceeding was not explained. The evidence of Purna Chandra Saha seems to be one of vague denial and avoidance. It is difficult for him to deny his signature in several documents including the authorization letter. All these letters were marked as exhibits without any objection. The Learned Trial Court on the basis of oral and documentary evidence arrived at a finding that the original

claimant suffered severe injury on his scalp in course of his employment.

3. In view of unimpeachable evidence and having regard to the fact that it does not involve any substantial question of law, the appeal is accordingly dismissed at the admission stage along with CAN 1 of 2025.

4. Urgent Photostat copy of this order, if applied for, be given to the parties on usual undertaking.

(Soumen Sen, J.)

(Smita Das De, J.)

