

# **THE HIGH COURT OF TRIPURA AGARTALA**

**MFA (WC) No. 35 of 2004**

1. **Smti. Mangal Laxmi Debbarma,**  
W/O Late Bishu Debbarma.
2. **Shri Dinabandhu Deb Barma,**  
S/O Late Hari Chandra Deb Barma.
3. **Smti Rina Deb Barma,**  
D/O Late Bishu Debbarma
4. **Shri Niranjana Deb Barma,**  
S/O Late Bishu Deb Barma.
5. **Shri Saran Deb Barma,**  
S/O Late Bishu Debbarma

All are resident of village – Udai Kobra Para  
(Raj Mangal Para), Mandai, P.S.- Jirania  
District- West Tripura.

( Sl. No. 3 to 5 are minor daughter and sons  
of the deceased workman Bishu Debbarma.  
They are represented by their mother and  
natural guardian Smti Mangal Laxmi Deb  
Barma, i.e. the applicant No. 1)

***.... Appellants***

***- Versus -***

1. **Shri Sani Chandra Deb Barma**  
S/O Shri Budhu Chandra Deb Barma,  
Of village- Udai Kobra Para ( Raj Mangal Para)  
Mandai, P.S.- Jirania, District- West Tripura.
2. **The Tripura Tribal Areas Autonomous District  
Council,**  
Represented by the Chief Executive Officer (TTAADC)  
Khumlung, P.S.- Jirania, District- West Tripura.
3. **The Superintending Engineer ( P.W.D.)**  
Tripura Tribal Areas Autonomous District Council,  
Khumlung, P.S.- Jirania, District- West Tripura.

***.... Respondents***

**B E F O R E**  
**THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA**

For the appellants : Mr. Samik Deb, Advocate.  
For the respondents : None.  
Date of hearing : 21 .06.2013.  
Date of delivery of judgment : 27 .06.2013  
Whether fit for reporting : **YES / NO**

**JUDGMENT & ORDER**

The appellants in this appeal has challenged the award of the learned Commissioner, Workmen's Compensation, West Tripura, Agartala, in case No. T.S. (WC) 14 of 1999, decided on 19<sup>th</sup> March, 2004, whereby the petitioner was held liable to pay the compensation being the principal employer under Section 12 of the Workmen's Compensation Act, 1923.

2. No substantial question of law has been framed in this case, but on going through the record, I find that the appeal was admitted and according to me the following substantial question of law arises in this appeal –

*Whether the petitioner could be held liable to the compensation in term of Section 12 of the Workmen's Compensation Act when there was no evidence on record to show that the petitioner had given a contract to Sri Sani Chandra Debbarma to build the bridge on which the accident took place ;*

3. Briefly stated that facts of the case are, that the claimants are the legal heirs of late Bishu Debbarma. According to the claimants, the deceased was employed as a workman by Sri Sani Chandra Debbarma and according to the petitioners the deceased along with other labourers was working for the construction of the bridge on the Mandai-Dhalai road and he was supervising the labour work as '**labour sardar**'. A gang of extremists came and fired upon the workers and as a result of the firing, the victim Bishu Debbarma died on the spot. One other employee died at the hospital. Some other workers also suffered injuries or died at the spot. In the petition there is no allegation that the deceased was employed with the Tripura Tribal Area Autonomous District Council (in short herein termed as **TTAADC**). The allegation was that, he was an employee of Sri Sani Chandra Debbarma. Sri Sani Chandra Debbarma in his written statement denied that the deceased Bishu Debbarma was under his employment but he did not reply to the allegation that he was the contractor for construction of the bridge. The appellants filed a separate written statement in which they specifically took the plea that Sri Sani Chandra Debbarma was neither an employee of the TTAADC and further a specific averment was made that, no work order was issued in favour of the said person for construction of any bridge on the Mandai-Dhalai road.

4. In fact, the stand of the TTAADC was that it never constructed any bridge on the road and the bridge may have been constructed by some other department. It was admitted that the spot at which the accident took place may be within the jurisdiction of TTAADC, but it was in no uncertain

terms stated that the bridge in question was not been constructed on behalf of TTAADC and it had not awarded any contract order to Sri Sani Chandra Debbarma.

5. The widow of the deceased appeared as PW 1 and stated that her husband used to work under contractor Shri Sani Chandra Debbarma. PW 2 has a shop near the bridge and according to him the work was being done by Shri Sani Chandra Debbarma and he had got the contract from TTAADC. OPW 1 appeared on behalf of OP No. 2 and OP No. 3. He is a Junior Engineer working in the TTAADC. He stated that Sani Chandra Debbarma was not awarded any contract for construction of the bridge, in question. He has clearly stated that on the Mandai-Dhalai road the TTAADC did not construct any bridge through any contractor. He, however could not say whether the State Government or any other authority had got the bridge constructed. Other than the oral statement of PW 2 there is nothing on record to show that Shri Sani Chandra Debbarma was engaged as contractor by TTAADC. The respondent no. 2 and 3 in the reply to the petition as well as in the oral testimony of OPW 1, have denied the existence of any such contract. They have also denied that any bridge was being constructed on behalf of the TTAADC on the Mandai-Dhalai road. There is virtually no evidence to hold otherwise.

6. In view of the above discussion, I am of the view that the finding arrived at by the Commissioner, Workmen's Compensation, whereby it held that the petitioner is liable to pay the compensation is based on no evidence

on record and, therefore, this is a perverse finding which can be set aside in this appeal.

7. The appeal is accordingly allowed and the petitioners are exonerated from the liability to pay the compensation. It is, however, made clear that the finding of the Commissioner, Workmen's Compensation, that the deceased was an employer of Shri Sani Chandra Debbarma is correct and is upheld and the said Shri Sani Chandra Debbarma shall be liable to pay the compensation to the heirs of the deceased.

8. The appeal is disposed of in the aforesaid terms.

Send down the LCRs forthwith.

**CHIEF JUSTICE**