

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

M.F.A. no. 1 of 2016

The National Insurance Co. Ltd. having its Head Office at 3, Middleton Street, Kolkata represented by its Divisional Office at Thangal Bazaar, Imphal, Manipur.

..... Appellant

- Versus -

1. Shri Laishram Yaima Singh, aged about 62 yrs, s/o late L. Biramangol Singh of Chajing Karam Makha Leikai, P.O. Lilong & P.S. Singjamei, Imphal West District, Manipur.
2. Mrs. Sovashini Devi, aged about 34 yrs, w/o L. Satrajit Singh, a resident of Haoreibi Mayai Leikai, P.O. & P.S. Wangoi, Imphal West District, Manipur (Regd. Owner of the Tata Truck bearing Regd. No. MN-04A/8308).

.... Respondents

BEFORE
HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR

For the appellant	:	Mr. A. Deni Sharma, Advocate
For the respondent	:	Mr. H. Dijen, Advocate
		Mr. N. David, Advocate
		Mr. Th. Henba, Advocate

Date of Order	:	26.09.2018
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ORDER

[1] Heard Mr. A. Deni Sharma, learned counsel appearing for the appellant and Mr. H. Dijen, Mr. N. David and Mr. Th. Henba, learned counsels appearing for the respondents.

[2] The substantial question of law in this appeal is as follows:

- "1. Whether the Employee Compensation Act confer a right on the claimant for compensation under the Act to claim payment of compensation in its entirety from the Insurer?*
- 2. Whether under the Employee's Compensation Act, when an Employee got injured or death in an accident in course of his employment, is he entitled for compensation from his employer or the Insurer?*
- 3. Whether the Commissioner can by-passed provision of the Act, whereby the Insurer agreed to indemnify/re-imbursed the compensation amount already paid by the Employee/Insurer?*
- 4. Whether the Ld. Commissioner was right in holding that the deceased died due to injuries he sustained in the accident without anything in record?"*

[3] The appellant/National Insurance Company Ltd. filed the appeal challenging the order dated 25.08.2013 passed by the Commissioner for Employees' Compensation, Manipur, in Claim Case No. 7 of 2013.

[4] The brief facts of the case are as follows:-

On 03.01.2013, the Tata truck bearing Registration No. MN-04A/8308 was driven by driver namely, Shri Thounaojam Abung Singh. The road traffic accident happened when the driver of the truck started to drive it suddenly and the handyman leaned out of his seat for indicating signal and sign to other vehicles. Due to the sudden jerk, he slipped and fell down on the ground. The

vehicle ran over him and crushed at his right side of belly. The handyman was admitted to Nikos Hospital and Research Center, Dimapur on 03.01.2013 on the date of accident, and died on 06.01.2013 at the same hospital. Exbt. A/8 is the Death Certificate, and Ext. A/7 is the Accident Information Report under Form 54 by the Investigating Officer on the death of 21 years old handyman. His father filed a claim for compensation before the Commissioner for Employees' Compensation, Manipur. Evidences were let in, documents, relevant records of the accident, the admission to the hospital and death certificate were taken into consideration. The following issues were framed:

"Therefore, the following issues are framed to settle the claim:

- 1. Whether the deceased is an employee within the meaning of the said Act?*
- 2. Whether the accident to the deceased arises out of and in the course of his employment?*
- 3. Whether the opposite party No. 2 is liable under section 3 of the said Act to pay such compensation for the personal injury to the deceased?*
- 4. Whether the opposite party No. 1 is liable u/s 147(5) of the Motor Vehicles Act, 1988 to indemnify the opposite party No. 2 the liability to pay compensation for the personal injury to the deceased?*
- 5. Whether the amount of compensation as claimed is due or any other compensation?"*

[5] Among these 5 issues, there is no dispute on issue No. 1, 2 & 5, but on issue No. 3 & 4, the appeal is canvassed and the question of law has been framed by this Court on 17.01.2018 in the following manner:

"Heard Shri A. Deni Sharma, learned counsel appearing for the appellant and Shri Th. Modhu, learned counsel appearing for the respondent No. 1. The matter is listed today for framing substantial question of law. In the memo appeal, four issues have been proposed by the appellant but after hearing the learned counsels appearing for the parties, the following substantial question of law has been framed:

"Whether, the Ld. Commissioner was right in holding that the deceased died due to injuries he sustained in the accident without anything in record?"

[6] Mr. A. Deni Sharma, learned counsel appearing for the appellant pleaded that the death was not on account of the accident and injury caused on 03.01.2013. He picked holes on the death certificate by stating that no postmortem was done and no doctor was examined.

[7] On the contrary, Mr. H. Dijen, learned counsel appearing for the respondent/claimant pleads that the death certificate is self-explanatory and is supported by the Accident Information Report of the competent police officer where the factum of accident at the location, the injuries sustained by the handyman and the death which was occurred in the hospital was clearly recorded in his report dated 02.02.2013. This report is based on a proper enquiry by the officer concerned. Due to illiteracy of the claimant, substantial justice should not suffer.

[8] No doubt, there is no postmortem done, but the fact remains that the Death Certificate and the Accident Information Report clearly established the handyman was run over by the said Truck causing serious injuries and death within a short period of time. There could be no other reason except the accident and grievous injury which has happened in the present case. The link between the cause of accident and death has been clearly established by the claimant before the Commissioner for Employees' Compensation by oral evidence and documentary evidence. Therefore, the Commissioner was justified in holding

that the cause of death was due the accident which happened on 03.01.2013 when the deceased was in the course of employment.

[9] Hence, the issue is answered against the appellant and in favour of the respondent/claimant. No other issue is raised by the learned counsel appearing for the appellant.

[10] Accordingly, appeal stands dismissed. The claimant is entitled to withdraw balance amount if available.

CHIEF JUSTICE

Sandeep