



NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 6909 OF 2015

SMT. MANIKA PAUL & ORS. ... APPELLANT(S)

VERSUS

**THE NEW INDIA ASSURANCE
CO. LTD. & ORS. ... RESPONDENT(S)**

ORDER

1. The present appeal challenges the judgment dated 05.02.2015 passed by the High Court of Tripura at Agartala (hereinafter, "High Court") in MFA (W/C) No. 17 of 2007. By that judgment, the appeal preferred by The New India Assurance Co. Ltd., Respondent No. 1 herein (hereinafter, "Insurer"), was allowed. The judgment/award dated 31.05.2007 passed by the Commissioner, Workmen's Compensation, West Tripura, Agartala (hereinafter, "Commissioner") in T.S. (W/C) No. 48 of 2005, granting compensation of

Rs. 3,22,855/- with interest to the Appellants, was thereby set aside.

2. I.A. No. 32034 of 2022 has been filed seeking deletion of Appellant No. 3, Shri Suresh Paul (also known as Suresh Chandra Paul), the father of the deceased. He expired on 02.11.2020 during the pendency of the present appeal. The mother of the deceased is already on record as Appellant No. 4. The application is allowed, and the name of Appellant No. 3 stands deleted from the array of parties.
3. Briefly, the facts are as follows. Suman Paul (hereinafter, "deceased"), aged about 28 years, was engaged as a driver of a Santro Zing car bearing registration No. TR-01-H-0792. The car was owned by one Babul Dey (since deceased) and insured with the Insurer. On 17.11.2004, at about 5:00 to 5:30 p.m., the deceased was called by the owner and, on his instructions, drove the officials of Nicholas Piramal company, who were staying at Rajdhani Hotel, Agartala. The deceased did not return home that night. His wife, Appellant No. 1, kept calling the house of the owner from about 1:00 a.m. At about

3:30 a.m. the wife of the owner informed her that the deceased had left the car in the garage at about 9:30 p.m. and gone away. A missing report was lodged on 18.11.2004. On 21.11.2004, his dead body was found in a drain near the Women's College Hostel, about 150 metres from Rajdhani Hotel. West Agartala P.S. Case No. 145 of 2004 under Section 302 of the Indian Penal Code, 1860 was registered on the report of his father.

4. The case of the Appellants before the Commissioner was that an entertainment programme had continued at Rajdhani Hotel till midnight, and that the deceased was waiting with the car outside the hotel, where Gunen Chandra Deb (PW-2) saw him at about 10:30 to 10:50 p.m. The owner, examined as DW-1, deposed that the officials returned to the hotel at about 8:45 to 9:00 p.m. According to him, the deceased then brought the car back, parked it in the garage at about 9:15 to 9:30 p.m., and handed over the keys to his wife, the owner himself being away from the house at the time. The Commissioner believed PW-2 and drew an adverse inference from the non-examination of the owner's wife. He also

relied upon the First Information Report and the seizure of the car during investigation. On that basis, he held that it "can be safely presumed" that the deceased was murdered in the course of his employment, and awarded compensation of Rs. 3,22,855/- with interest at 12% per annum.

5. The High Court did not accept the stand of the owner that the deceased was not his employee. It, however, disbelieved PW-2. His name was not disclosed in the claim petition. Though he claimed to know the family for about fifteen years, he informed neither the family nor the police during the four days the deceased remained untraced. He admitted that Rajdhani Hotel did not fall on the shortest route to his house. And his statement had not been recorded by the police. The High Court further noticed that no suggestion was put to DW-1 in cross-examination that the car was not parked in the garage at 9:30 p.m. It concluded that the employment of the deceased for the day had come to an end once he parked the car and left, that the murder took place later in the night for reasons not known, and that the Appellants had failed to discharge the burden of establishing a

causal connection between the death and the employment.

6. Learned counsel for the Appellants has asserted that the finding regarding the car having been parked at 9:30 p.m. rests on hearsay. The wife of the owner, who is said to have received the keys, was never examined, and DW-1 himself admitted that he did not meet the deceased after 5:30 p.m. The further submission is that PW-2 is an independent witness whose testimony was rightly accepted by the Commissioner. The First Information Report records that the deceased had been working as the owner's driver for about four months, and the seizure of the car shows that the deceased was engaged with the vehicle at the time of his death. It is also urged that the High Court failed to apply the doctrine of notional extension. On these assertions, the judgment of the High Court is sought to be assailed.
7. On the other hand, the Insurer has supported the impugned judgment. It submits that the deceased parked the car in the garage at 9:30 p.m., handed over the keys and left, whereupon his employment

came to an end. The version of his presence at Rajdhani Hotel was disbelieved on appreciation of evidence, and the murder has no causal connection with the employment. On this basis, it is submitted that the impugned judgment does not call for any interference.

8. We have considered the submissions and perused the record. Under Section 3(1) of the Workmen's Compensation Act, 1923 (hereinafter, "Act"), the employer is liable where personal injury is caused to a workman "by accident arising out of and in the course of his employment". Both requirements must be satisfied, and the onus is upon the claimant. This Court in ***Mackinnon Mackenzie & Co. Private Ltd. v. Ibrahim Mohammad Issak***, 1969 ACJ 419 has held as follows:

"Although the onus of proving that the injury by accident arose both out of and in the course of employment rests upon the applicant these essentials may be inferred when the facts proved justify the inference. On the one hand the Commissioner must not surmise, conjecture or guess; on the other hand, he may draw an inference from the proved facts so long as it is a legitimate inference."

9. The employment of the deceased with the owner has been accepted by the High Court and is not in issue before us. What, therefore, is required to be seen is whether the deceased was on duty when he met his death. There is no direct evidence on this aspect. The circumstances in which, and the reasons for which, the deceased was murdered have remained unknown.
10. What is significant to note is that the version of the car having been parked in the garage at 9:30 p.m. is not merely a statement of DW-1 rather it is the information which the family of the deceased itself received from the owner's wife that very night. The father of the deceased recorded it in the First Information Report, the Appellants pleaded it in the claim petition, and Appellant No. 1 (PW-1) reiterated it in her affidavit. In her cross-examination, PW-1 stated that she could not say whether her husband had been relieved from duty at 9:30 p.m. after keeping the vehicle in the garage of the owner. DW-1 was not confronted with any suggestion to the contrary. In this light, the non-examination of the

owner's wife is of no consequence, and the plea of hearsay does not merit acceptance.

11. The only evidence against this version is that of PW-2. The reasons assigned by the High Court for not relying upon him are based on the record, and largely on his own admissions in cross-examination. We find no perversity in the said appreciation. The finding of the Commissioner, on the other hand, rested on a presumption rather than on an inference legitimately drawn from proved facts, which is precisely what ***Ibrahim Mohammad Issak (supra)*** cautions against.
12. The other circumstances pressed by the Appellants do not advance their case. The fact that the deceased had worked with the owner for some months establishes the employment, which is a finding not in dispute. The seizure of the car of the owner in the investigation of the murder of its driver, by itself, does not indicate that the deceased was with the vehicle, or was attacked while driving or guarding it, when he was killed. The recovery of the dead body about 150 metres from the hotel only shows proximity to the

place, not a connection with the employment. It cannot supply the basic fact that the workman was engaged in, or in connection with, his employment when the fatal injury was sustained. The doctrine of notional extension, as explained in **General Manager, B.E.S.T. Undertaking, Bombay v. Agnes, AIR 1964 SC 193**, on which reliance is sought to be placed by the appellants depends on the circumstances of each case. The decisions relied upon by the Appellants were cases where the workman was, at the relevant time, with the vehicle or on an errand of the employer. That is not so in the present case.

13. We are, thus, in agreement with the view taken by the High Court that the Appellants have failed to discharge the burden cast upon them under Section 3(1) of the Act. The view taken is a plausible one on the evidence on record, and does not call for any interference.
14. In view of the above, I.A. No. 32034 of 2022 stands allowed in the terms indicated in paragraph 2. The present appeal is dismissed, and the judgment dated

05.02.2015 passed by the High Court in MFA (W/C) No. 17 of 2007 is upheld. The interim order dated 03.07.2015 stands vacated. Any amount paid to, or withdrawn by, the Appellants under the award dated 31.05.2007 passed by the Commissioner in T.S. (W/C) No. 48 of 2005 shall not be recovered from them. No order as to costs.

15. Pending application(s), if any, shall stand disposed of.

.....J.
[**AUGUSTINE GEORGE MASIH**]

.....J.
[**SANDEEP MEHTA**]

**NEW DELHI;
SEPTEMBER 16, 2026.**