

**(2017) 02 TP CK 0027**  
**In the Tripura High Court**  
**Case No : 16 of 2012**

Sri Pradip Sarkar

APPELLANT

Vs

The Managing Director & Ors

RESPONDENT

**Date of Decision :** 16-02-2017

**Acts Referred:**

[Indian Penal Code, 1860](#), [Section 358](#) - Assault or criminal force on grave provocation  
[Workmens Compensation Act, 1923](#), [Section 4](#), [Section 10](#), [Section 22](#), [Section 4A](#) - Amount of compensation - Notice and claim - Form of application - Compensation to be paid when due and penalty for default

**Citation :** (2017) 02 TP CK 0027

**Advocate :** S. Deb, S.B. Debnath, A. Sengupta

**Final Decision :** Dismissed

## Judgement

1. Having heard Mr. S. Deb, the learned senior counsel for the appellant, and Mr. A. Sengupta, the learned counsel for the respondent Corporation, at some length, I find that there is no merit in this appeal, which is liable to dismissed.

2. The appellant is dissatisfied with the judgment dated 5-5-2012 passed by the learned Commissioner, Workmen's Compensation, West Tripura, awarding a sum of Rs.18,500/- for the injuries sustained by him in the course of his employment. It is his case that on 12-8-2006 at about 3 PM, when he was working on high tension live electric wire, he suddenly came into contact with the live wire, got electrocuted, which caused him burnt injuries to the extent of 60/70 percent and is alleged to have become permanently disabled. The incident was duly communicated over the phone to the Electricity Department and the Fire Service. He was admitted to AGMC & GBP Hospital as an indoor patient on 12-8-2006 and was discharged on 30-8-2006. He claimed that he was 26 years old and was working in the Electric Department at the time of the accident and used to earn Rs.4,500/- per month. He claimed that as a result of the electrocution, his family members had been suffering from various problems as he became crippled and

rendered unable to earn. The accident was reported to East Agartala Police Station, which registered East Agartala P.S. Case No. 125 of 2006 U/s 358 IPC and submitted a charge sheet against the Senior Manager, Electrical Sub-Division No. 1, Banamalipur, Agartala. The appellant further claimed that he was at the time of the accident engaged by the respondent No. 4, who was executing the work for and on behalf of the Electricity Department. He, therefore, filed the claim petition under Sections 4, 4A, 10 and 22 of the Workmen's Compensation Act, 1923 for payment of compensation for the injuries sustained by him.

3. The respondent No. 1 to 3 contested the claim petition by filing their written statement and pointed out that the appellant was a casual labor engaged for that particular day only by the respondent No. 4 at the daily wage of Rs.120/- and was, therefore, not a workman coming within the purview of Workmen's Compensation Act; he is thus not entitled to any compensation from the answering respondents. The respondent No. 4 also contested the claim petition and filed his written statement denying all the allegations of the appellant. He pointed out that the appellant was engaged as a daily rated worker to perform the maintenance work of 33 KV Electric lines at 79 Tilla under work order dated 7-3-2007. He asserted that at the time of the accident, the appellant was not his employee and did not sustain any injury while working in a high tension live electric wire. According to the answering respondent, when the appellant was getting down through a bamboo made ladder carelessly, his shirt touched a L.T. Line and his synthetic shirt caught fire from the electric sparks making him confused and confounded and did not try to get down from the ladder and was ultimately rescued by the Fire Service people. He was thereafter taken to the hospital for treatment. The answering respondent denied all the claims of the appellant.

4. On the pleadings of the parties, the learned Commissioner framed the following issues for decision: 1. Whether the appellant sustained injuries in an accident occurred on 12-8-2006 in course of his employment under the respondents?

2. Whether the appellant is entitled to get any compensation? If so, what will be the amount of compensation and who is liable to pay the same?

3. What other relief/reliefs the petitioner is entitled to?

5. The learned Commissioner answered Issue No. 1 in the affirmative. He awarded a lump sum of Rs.5,000/- towards cost of treatment for his injuries. He found the income of the appellant to be Rs.4,500/- per month. On the basis of the discharge certificate, he found that the appellant was in the hospital for 18 days. However, by a strange finding, he found that the appellant did not work for 3 months due to the said burn injury and, therefore, awarded Rs.4500 X 3 = Rs.13,500/- as compensation for loss of income. As there is no appeal against this finding, I do not propose to disturb this part of the award.

6. Mr. S. Deb, the learned senior counsel for the appellant, forcefully submits

that when the appellant proved that he suffered disablement to the extent of 40% and became permanently disabled, the learned Commissioner committed manifest error of law in restricting the amount of compensation payable only to loss of income only for three months i.e. for the period of his confinement in hospital. He, therefore, contends that the compensation so awarded is too inadequate and disproportionate to the disablement sustained by him. Refuting the contention of the senior learned counsel, Mr. A. Sengputa, the learned counsel for the respondent Corporation, submits that when the appellant has miserably failed to substantiate his claim that he suffered permanent disablement to the extent of 40%, the learned Commissioner rightly refused to award him compensation in that behalf. He, therefore, submits that the appeal is absolutely devoid of merit and is liable to be dismissed.

7. As already observed in the beginning, there is no merit in this appeal. No disablement certificate could be produced by the appellant to demonstrate that he suffered any disablement, permanent or otherwise. On the contrary, the learned Commissioner has recorded the finding that the Locomotor Specialist at DDRC (West) had conducted medical examination of the appellant on 7-9-2011 and recorded vide the OPD Ticket that the appellant was not disabled. According to the learned Commissioner, though it had been mentioned in the Discharge Certificate that the appellant had suffered 40% burn injury, 40% burn injury sustained by him could not prevent him from performing normal work or normal profession. In my opinion, the findings so recorded by the learned Commissioner do not suffer from any infirmity. No medical expert was examined by the appellant nor was any unimpeachable admissible evidence produced by him to prove that he actually sustained permanent disablement which resulted in loss of earning capacity to the extent of 40%. In the view that I have taken, the impugned judgment does not warrant the interference of this Court.

8. The appeal is, therefore, devoid of merit and is, accordingly, dismissed. The parties are, however, directed to bear their respective costs.