

GAHC010017312023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP(IO)/38/2023

PARUL HAZARIKA AND 2 ORS
W/O LATE RANA JAGADISH HAZARIKA, R/O MOINAPARA (NEAR DHASIRI
BRIDGE), P.O.-MORANGI, P.S.-GOLAGHAT, DIST-GOLAGHAT, ASSAM

2: MISS PRIYANKA HAZARIKA
D/O LATE RANA JAGADISH HAZARIKA
R/O MOINAPARA (NEAR DHASIRI BRIDGE)
P.O.-MORANGI
P.S.-GOLAGHAT
DIST-GOLAGHAT
ASSAM

3: PARTHA PROTIM HAZARIKA
S/O LATE RANA JAGADISH HAZARIKA
R/O MOINAPARA (NEAR DHASIRI BRIDGE)
P.O.-MORANGI
P.S.-GOLAGHAT
DIST-GOLAGHAT
ASSA

VERSUS

BALESWAR PRASAD GUPTA AND 3 ORS
S/O S. PRASAD GUPTA, R/O CHANMARI COLONY, P.O.-KOHIMA, DIST-
KOHIMA (NAGALAND), AT PRESENT R/O NEAR SATYA NARAYAN
SERVICE, GOTA NAGAR, GUWAHATI, DIST- KAMRUP (M), ASSAM

2:SHAKTI PRASAD SAHANI
S/O G. SAHANI
R/O 150 COLLIN STREET
KOLKATA
WEST BENGAL
PIN-700016

3:RELIANCE GENERAL INSURANCE CO. LIMITED
ABC
G.S. ROAD
GUWAHATI
DIST-KAMRUP (M)
ASSAM
PIN-781005 REPRESENTED BY ITS BRANCH MANAGER

4:ORIENTAL INSURANCE COMPANY LIMITED
GOLAGHAT BRANCH
G.F. ROAD
P.O.-GOLAGHAT
DIST- GOLAGHAT
ASSAM
PIN-785621
REPRESENTED BY ITS BRANCH MANAGE

Advocate for the Petitioner : MR. M DUTTA

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR**

ORDER

Date : 08.02.2023

Heard Mr. M. Dutta, learned counsel for the petitioner.

By this petition under Article 227 of the Constitution of India, the petitioners have challenged the legality and validity of the order, dated 13.12.2022, passed in Petition No. 2883/2022, arising out of MAC Case No. 79/2014 by the learned Member, MACT, Golaghat.

The brief fact of the case is that the claimants/petitioners filed a claim petition before the MACT, Golaghat, which was allowed on contest, vide judgment and award dated 15.02.2018, by directing the respondent Insurance Company to pay Rs. 29,91,772/- to the petitioners. Thereafter, being aggrieved with the said judgement,

the respondent Insurance Company preferred an MAC Appeal before this Court, which was dismissed vide judgment and order, dated 03.03.2022. After dismissal of the MAC appeal, the respondent Insurance Company deposited an amount of Rs.25,70,957/- towards the balance amount in full and final settlement of the claim case. Subsequently, the claimants/petitioners filed Petition No. 2883/2022 before the Member, MACT, Golaghat, praying for allowing them to withdraw the deposited amount and the same was allowed. The learned Member, MACT, however, observed that the shares of the petitioner Nos. 2 and 3 be kept in a Nationalized Bank for a period of five years. Being aggrieved with the said order, the claimants/petitioners filed this instant petition.

The relevant portion of the order, dated 13.12.2022, is extracted as hereinbelow:-

“Heard the petitioners. Taking note of all the facts and circumstances, the prayer is allowed. The balance awarded amount along with the interest amounting to Rs. 25,70,957/- (Rupees Twenty Five Lakh Seventy Thousand Nine Hundred Fifty Seven) only be paid to the claimant Nos. 1, 2 & 3 in equal shares.

It is further ordered that the shares of the awarded amount of the claimants No. 2 and 3 namely Priyanka Hazarika and Partha Protim Hazarika are to be kept in fixed deposit scheme, in a Nationalized Bank near their permanent residence for a period of 5 (five) years.”

The record reveals that both the petitioner Nos. 2 and 3 are aged about 29 and 27 years respectively and, as such, their consent was necessary for depositing their share of award in fixed deposits. There is no evidence to show that their consent was obtained to keep their respective share of award in fixed deposit schemes for a period of 5 (five) years in a Nationalized Bank, which the learned Tribunal omitted to consider seemingly through inadvertence.

Therefore, the prayer of the petitioners to withdraw their respective shares of compensation award is hereby allowed.

With the above, this petition stands disposed of.

JUDGE

Comparing Assistant