

GAHC010029912023



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

Case No. : CRP(IO)/56/2023

LIBERTY GENERAL INSURANCE LTD.
(EARLIER LIBERTY VIDEOCON GENERAL INSURANCE COMPANY LTD.)
HAVING ITS REGISTERED OFFICE AND HEAD OFFICE AT 10TH FLOOR,
TOWER A, PENINSULA BUSINESS PARK, GANPATRAO KADAM MARG,
LOWER PAREL (WEST) MUMBAI-400013, MAHARASHTRA AND ITS
BRANCH OFFICE AT 4TH FLOOR, GANAPATI ENCLAVE, BORA SERVICE,
G.S. ROAD, GUWAHATI, KAMRUP (M), PIN-781007

VERSUS

SMTI RIJU MONI HAZARIKA AND 4 ORS
W/O SRI BHUPEN SAIKIA, R/O BAMPARBATIA TEZPUR, DIST- SONITPUR,
ASSAM, PIN-784001

2:SMTI BHANU KALITA DEKA
W/O LATE TINKU DEKA
USHANAGAR
WARD NO. 17
P.S.-TEZPUR
P.O.-TEZPUR
DIST-SONITPUR
ASSAM-784001

3:SMTI PARBATI DEKA
W/O PRAN KRISHNA DEKA @ PRAN KANTA DEKA
USHANAGAR
WARD NO. 17
P.S.-TEZPUR
P.O.-TEZPUR
DIST-SONITPUR
ASSAM-784001

4:BHUPEN SAIKIA
S/O SARBESWAR SAIKIA
R/O BAMPARBATIA TEZPUR DIST-SONITPUR
ASSAM
PIN-784001

5:ORIENTAL INSURANCE COMPANY LTD
TEZPUR BRANCH
TEZPUR
NEAR HDFC BANK
HATIBILKHANA ROAD
TEZPUR
ASSAM
PIN-78400

Advocate for the Petitioner : MR T KALITA

Advocate for the Respondent :

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

27. 02. 2023

Heard Mr. T Kalita, learned counsel for the petitioner.

2. The present petition is filed by the Insurance Company assailing an order dated 06.12.2022 passed in MAC Case No. 57/2020 (Death) whereby the prayer of the present petitioner to file written statement was rejected.
3. The background fact of leading to filing of the present petition can be summarized as under:
 - I. The son of the respondent No. 1 died in a motor vehicular accident on 04.01.2020 and accordingly a claim petition being MAC Case No. 57/2020 (D) was preferred.
 - II. The notice of such claim was issued to the present petitioner on

09.12.2020.

- III. The petitioner Insurance Company, upon receipt of such notice though appeared before the learned Tribunal below did not file written statement showing many difficulties. One of the same is that there was no legal officer in the head office at Guwahati to advice properly.
 - IV. Thereafter, when no written statement was filed, the matter was directed to be proceeded ex-parte against the present appellant under order dated 06.02.2021 passed by the learned Tribunal below.
 - V. Thereafter, according to the present petitioner they filed an application on 10.02.2022 praying for vacating the order dated 06.02.2021 and same was allowed by the learned Member, MACT, Sonitpur and liberty was granted to present petitioner for filing written statement.
 - VI. Thereafter also the learned Tribunal granted opportunity to file written statement, however, the appellant did not file any written statement and the matter proceeded. The claimant led evidences and cross-examination continued.
 - VII. Prior to that, the Insurance Company filed their written statement on 11.11.2022. However, the learned Tribunal below has refused to accept such written statement by order dated 06.12.2022.
 - VIII. As discussed herein, the matter was proceeded, the witnesses examined, cross-examined and now matter is fixed for argument.
4. From the aforesaid fact, it is apparent that the Insurance Company was negligent in conducting the case inasmuch as even after the matter was

proceeded ex-parte, the learned Tribunal vacated the same and allowed the present appellant to file written statement, however, they failed to file written statement even after such opportunity was granted and finally such written statement was filed on 11.11.2022, which was rejected by the learned Tribunal on 06.12.2022. Even after 06.12.2022, the petitioner has not approach this court immediately. Till filing of the present petition, the matter was proceeded ex-parte and reached the stage of argument.

5. Therefore, this court is not inclined to entertain the present application inasmuch as the petitioner has been negligent and if such application is allowed same will prejudice the claimant, who had in the meantime laid their evidence and the learned counsel for the petitioner company also cross-examined them.
6. Accordingly, this revision petition stands dismissed.

JUDGE

Comparing Assistant