

GAHC010003322017



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

Case No. : MACApp./124/2018

ICICI LOMBARD GENERAL INSURANCE CO. LTD.
HAVING ITS REGISTERED OFFICE AND HEAD OFFICE AT ICICI BANK
BANK TOWERS BANDRA KURLA COMPLEX, MUMBAI 400051 AND AND A
BRANCH OFFICE AT MADHAB TOWER, 3RD FLOOR, RUKMINIGAON, G.S.
ROAD, GUWAHATI 781022

VERSUS

SMTI SUKLA DEVI and 3 ORS
R/O QRT NO. 28/B (TYPE III), REST CAMP , P.S. JALUKBARI, GUWAHATI
781012, DIST. KAMRUP (ASSAM)

2:CHIRANJIT SIL

C/O 346
G.T. ROAD
P.S. BARDHAMAN
DIST. BARDHAMAN
WEST BENGAL
PIN 713101

3:BAPPA MALLICK
CO 346
G.T. ROAD
P.S. BARDHAMAN
DIST. BARDHAMAN
WEST BENGAL
PIN 713101 (OWNER OF VEHICLE NO. WB-41/C-3442 (TRUCK))

4:INDRAJIT DEY
C/O M.L. DEY
R/O W.W. COLONY

H/ NO. 67
PANDU COLLEGE GATE
GUWAHATI 781012 (OWNER OF THE VEHICLE NO. AS-01-AW-3260 (INDICA VISTA))

5:THE ORIENTAL INSURANCE CO. LTD.
CHANDMARI BRANCH
CITY DIVISION OFFICE NO. III
M.R.D. ROAD
CHANDMARI
GUWAHATI 781003 (INSURER OF THE VEHICLE NO. AS-01-AW-3260 (INDICA VISTA))

Advocate for the Petitioner : MR. R GOSWAMI

Advocate for the Respondent : MR. S K GOSWAMI (R5)

Linked Case : I.A.(Civil)/473/2023

ICICI LOMBARD GENERAL INSURANCE CO. LTD.
HAVING ITS REGISTERED OFFICE AND HEAD OFFICE AT ICICI BANK BANK TOWERS BANDRA KURLA COMPLEX
MUMBAI 400051 ITS ZONAL OFFICE AT APEEJAY HOUSE 15 PARK STREET 7TH FLOOR KOLKATTA 700016 AND A BRANCH OFFICE AT KAMAKHYA TOWER 3RD FLOOR OFFICE NO. 305 AND 306 G S ROAD GUWAHATI 781005 ASSAM

VERSUS

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VISTA))

Advocate for : MR. R GOSWAMI
Advocate for : appearing for SMTI SUKLA DEVI and 3 ORS

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

09.03.2023

Heard Mr. R. Goswami, learned counsel for the applicant-ICICI Lombard General Insurance Co. Ltd; Mr. C. Goswami, learned counsel for the claimant-respondent No. 1; Mr. R. Sharma, learned counsel for the respondent No. 4 and Mr. D. Deka, learned counsel for the respondents No. 2 and 2A.

2. By the Judgment dated 25.09.2017 passed in MAC Case No. (D)239/2013. The Addl. District Judge (FTC), Darrang, Mangoldoi allowed the claim of the

claimant to the extent of Rs. 23,05,252/- (Rupees Twenty Three Lakhs Five Thousand Two Hundred Fifty Two Only) carrying interest at the rate of 6% per annum from the date of filing of the petition till its realization. The opposite parties No. 3 & 4 in the claim petition namely, ICICI Lombard General Insurance and Oriental Insurance respectively were directed to pay 50% of the awarded amount each i.e., Opposite party No. 3 which is ICICI Lombard will pay Rs. 11,52,626/- (Rupees Eleven Lakhs Fifty Two Thousand Six Hundred Twenty Six Only) and Opposite Party No. 4- Oriental Insurance Co. will pay Rs. 11,52,626/- (Rupees Eleven Lakhs Fifty Two Thousand Six Hundred Twenty Six Only) within one month from the date of the order. Being aggrieved, an appeal has been preferred by the ICICI Lombard General Insurance.

3. Mr. R. Goswami, learned counsel for the applicant submits that meanwhile during the pendency of the appeal, settlement has been arrived at between the applicant and claimant, namely respondent No. 1, Smti Sukla Devi. The applicant has now filed an application stating that the parties have reached an amicable settlement at Rs. 16,94,000/- (Rupees Sixteen Lakhs Ninety Four Thousand Only) inclusive of No Fault Liability (NFL) and interest as full and final amount towards the settlement which shall be deposited before the Registry of the High Court upon such orders being passed by this Court.

4. Mr. C. Goswami, learned counsel for the claimant-respondent No. 1 does not dispute the contention raised in the interlocutory application filed by the ICICI Lombard General Insurance. It is submitted that in so far as the Oriental Insurance Company Ltd is concerned, their part of the share as directed by the learned trial Court has already been paid to the claimant.

5. Mr. R. Sharma, learned counsel for the Oriental Insurance Co. Ltd submits that Oriental Insurance Company has already been made its share of the payment.

6. Mr. D. Deka, learned counsel for the respondents No. 2 and 2(a) who is the owner of one of the vehicles involved in the accident.

7. None appears for respondent No. 3

8. Having heard the learned counsels for the parties, it is seen that the applicant has made a statement at Para-4 of the interlocutory application which reads as under:

“That the petitioner begs to state that since both the parties have come to an amicable settlement at Rs. 16,94,000/- (Rupees Sixteen Lakhs and Ninety Four Thousand Only) inclusive of NFL and interest as full and final amount towards settlement only the amount of Rs. 16,94,000/- (Rupees Sixteen Lakhs and Ninety Four Thousand Only) will be deposited after once order is passed before the Registry of this Hon’ble Court by the petitioner/appellant Insurance Company.”

9. The learned counsel for the claimant-respondent No. 1 does not dispute the averments made and in turn has also submitted that it is agreeable to the proposal of the appellant/applicant.

10. It is also seen that in the Judgment dated 25.09.2017 passed by the learned trial Court, there was no direction to the owners to make any payment in respect of the compensation amount.

11. Accordingly, this I.A is allowed and the applicant-ICICI Lombard General Insurance is directed to pay the amount of Rs. 16,94,000/- (Rupees Sixteen Lakhs and Ninety Four Thousand Only) before the Registry of this Court within a period of four weeks from today.

12. The claimant shall be allowed to withdraw the amount upon due deposit by the applicant by furnishing required documents in support of the proof of identity as well as the account details of the claimant before the Registry of this Court.

13. In terms of the above, the Interlocutory application is allowed and disposed of.

JUDGE

Comparing Assistant