

GAHC010056592020



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

Case No. : MACApp./265/2023

SRI AJIT DEBNATH @ AJIT NATH @ ASHIT DEY
S/O- LT. ASWINI DEY, R/O- VILL- BALITARA, P.O. BALITARA, P.S.
GHAGRAPAR, DIST.- NALBARI, ASSAM, PIN- 781349

VERSUS

M/S ICICI LOMBARD GENERAL INSURANCE CO. LTD. AND ANR
REP. BY REGIONAL MANAGER, REGIONAL OFFICE- G.S.ROAD, RUKMINI
GAON, GHY-22 (THE INSURER OF THE VEHICLE) P/ NO.
3003/29781058/1137/000, VALID UPTO- 8/11/2016

2:KANAI DEBNATH
S/O- NARAYAN DEBNATH
R/O- VILL- BALITARA
P.O. BALITARA
P.S. GHAGRAPAR
DIST.- NALBARI
ASSAM
PIN- 781349. (THE OWNER CUM DRIVER OF THE OFFENDING VEHICLE
NO. AS-/BU/6492 SCOOTI D/L NO. 2393/NB/2008
VALID UPTO 16/4/3

Advocate for the Petitioner : MR J MOLLAH

Advocate for the Respondent : MR. R GOSWAMI

**BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

ORDER

Date : 15.09.2023

- 1.** Heard Mr. J. Mollah, learned counsel for the appellant. Also heard Mr. R. Goswami, learned counsel for the respondent.
- 2.** This appeal has been preferred under Section 173 of the Motor Vehicles Act, 1988 impugning the Judgment, dated 28.08.2019, passed by the learned Member, Motor Accident Claims Tribunal No. 3, Kamrup(M), Guwahati, in MAC Case No. 2076/2016.
- 3.** The brief facts for consideration of the instant appeal are as follows:-
 - (i)** The appellant had approached before the Motor Accident Claims Tribunal No. 3, Kamrup(M), Guwahati by preferring a claim petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation on account of injuries sustained by him in an accident which occurred on 06.03.2016 at about 5.30 p.m., when the appellant was going from Nalbari to Guwahati as a pillion rider in the vehicle bearing Registration No. AS-01-BV-6492, which met with an accident. The said claim case was registered as MAC Case No. 2076/2016.
 - (ii)** The appellant claimed a compensation amount of Rs.10 Lakhs by filing the said claim case, however, after completion of the enquiry, learned Member, Motor Accident Claims Tribunal No. 3, Kamrup(M), Guwahati disposed of the claim case by the Judgment dated 28.08.2019, which is impugned in this appeal whereby though the learned Tribunal held that the claimant has been able to, *prima facie*, establish his case, however, the claim petition was dismissed on the ground that the materials available

on record were not sufficient to verify as to whether the claimant is the same person in whose name the medical vouchers and other medical documents were submitted in the said claim case, namely, Asit Nath or Asit Dey or Ajit Dey.

4. Mr. J. Mollah, learned counsel for the appellant has submitted that the appellant Asit Debnath is one and the same person with names Asit Nath / Asit Dey / Ajit Dey which is shown in medical documents and the said fact has been made clear by the appellant at the time of his cross-examination during enquiry before the learned Motor Accident Claims Tribunal, however, the said fact was not taken into consideration by the learned Motor Accident Claims Tribunal.

5. Mr. R. Goswami, learned counsel for the respondent has submitted that though during cross-examinations it came to the light that the appellant had different names in the medical documents, such as, the prescription/cash memos submitted in the enquiry in the said claims case, however, the claimant could not furnish any document to show that he is one and the same person with different names, namely, Ajit Dey, Asit Dey or Ajit Debnath @ Asit Nath.

6. Learned counsel for the appellant has submitted that this is a case where the learned Tribunal ought to have afforded an opportunity to the claimant/appellant to produce the documentary evidence to show that he is one and the same persons with different name i.e. the names against whom the cash memo/medical document were issued.

7. Learned counsel for the respondent also fairly submits that this case may be remanded back by affording an opportunity to the appellant to adduce additional documentary evidence to show that the appellant is the same person with different names shown in the medical documents deposited by him.

8. In view of the submissions made by learned counsel for the parties, this Court is also of the considered opinion that for the ends of justice an opportunity may be afforded to the appellant to adduce the additional documentary evidence to establish his claim that he is the person whose different names have been shown in the cash memos and other medical documents submitted in support of his claim case.

9. For the above reasons, the impugned judgment dated 28.08.2019 passed in MAC Case No. 2076/2016 by learned Member, Motor Accident Claims Tribunal No. 3, Kamrup(M) is hereby set aside and the MAC Case No. 2076/2016 is remanded back to the learned Motor Accident Claim Tribunal No. 3, Kamrup(M), Guwahati with a direction to afford opportunity to all the parties to adduce additional evidence and thereafter dispose of the said claim case as expeditiously as possible.

10. With this observation, this MAC Appeal is hereby disposed of.

JUDGE

Comparing Assistant