

GAHC010192262022



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

Case No. : I.A.(Civil)/3865/2022

ANJANA JHA and 4 ORS.
W/O LATE RATAN KUMAR JHA

2: MISS JAHNABI JHA

S/O LATE RATAN KUMAR JHA

3: ARMAAN JHA

S/O LATE RATAN KUMAR JHA

4: JOGENDRA JHA

S/O LATE RATAN KUMAR JHA

5: KALPANA JHA

S/O LATE RATAN KUMAR JHA
ALL 1 TO 5 ARE R/O HIJUGURI
BASHBARI
P.S. TINSUKIA
DIST. TINSUKIA
ASSAM

VERSUS

NATIONAL INSURANCE CO. LTD. AND ANR.
HAVING ITS REGISTERED OFFICE AT MIDDLETON STREET, KOLKATA AND
ONE OF THE REGIONAL OFFICES KNOWN AS GUWAHATI REGIONAL
OFFICE, AT G.S. ROAD, BHANGAGARH, GUWAHATI-5

2:MRS. KANAK LATA GOGOI

W/O MR. PHANIDHAR DUTTA

R/O KAKOPATHAR
PHC
P.S. KAKOPATHAR
DIST. TINSUKIA
ASSAM

Advocate for the Petitioner : MS. M DAS

Advocate for the Respondent : MS P HUJURI (R-1)

Linked Case : MACApp./156/2014

NATIONAL INSURANCE CO. LTD.
HAVING ITS REGISTERED OFFICE AT MIDDLETON STREET
KOLKATA AND ONE OF THE REGIONAL OFFICES KNOWN AS GUWAHATI
REGIONAL OFFICE
AT G.S. ROAD
BHANGAGARH
GUWAHATI-5

VERSUS

ANJANA JHA and 6 ORS.
W/O LATE RATAN KUMAR JHA

2:MISS JAHNABI JHA

S/O LATE RATAN KUMAR JHA
3:ARMAAN JHA

S/O LATE RATAN KUMAR JHA
4:JOGENDRA JHA

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ALL 1 TO 5 ARE R/O HIJUGURI
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P.S. TINSUKIA
DIST. TINSUKIA
ASSAM.

6:MRS. KANAK LATA GOGOI

W/O MR. PHANIDHAR DUTTA
R/O KAKOPATHAR
PHC
P.S. KAKOPATHAR
DIST. TINSUKIA
ASSAM.
7:DIGANTA HAZARIKA

S/O LATE KESHAB HAZARIKA
R/O BORHAPJAN
P.S. DOOMDOOMA
DIST. TINSUKIA
ASSAM.

Advocate for : MR A SAIKIA
Advocate for : appearing for ANJANA JHA and 6 ORS.

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA

ORDER

Date : 21.12.2023

Heard Mr. N. Debnath, learned counsel for the applicants. Also heard Mr. R.K. Bhatra, learned counsel for the opposite party no.1.

2. The learned counsel for the applicant has submitted that a typographical error has crept in paragraph 21 of the judgment and order dated 15.05.2019 passed in MAC Appeal No. 156/2014. It is submitted that the respondent no.4 is the father of the deceased, however, in the said order, it has been mentioned that the respondent nos.2, 3 and 4 are the children of the deceased. It is submitted that due to said typographical error, the payment required to be released to the claimants/applicants has been held up.

3. The learned counsel for the opposite party no.1 has not objected to the prayer made in this application.

4. Considering that in the claim petition, it is projected that the respondent no.4 in MAC Appeal No. 156/2014 is the father of the deceased, the Court is inclined to incorporate correction of the description of the parties as appearing in paragraph 21 of the said judgment and order dated 15.05.2019.

5. Accordingly the words "and 4" appearing in line 7 of paragraph 21 shall stand deleted.

6. Having done so, it has been submitted by the learned counsel for the applicant that the deletion of the respondent no.4 would require re-calculation of distribution of compensation.

7. As per the order passed in the appeal, the 10% remaining share was to be equally divided between the claimants. However, now the said amount would be shared between the wife and the mother of the deceased. Accordingly, the re-calculated sharing would now entitle the respondent no.1 in the said appeal to get 40% of the compensation, the respondent no.2 and 3 would become to equal share of 40% of compensation and the respondent no.5, being the mother of the deceased would become entitled to 20% of the compensation. This dispenses with the re-calculation of the remaining share of compensation, i.e. 10% share.

8. Accordingly, the correct paragraph 21 shall now be read as follows:

"21. The Apex Court in the case of T.N. State Transport Corporation Ltd. Vs. S. Rajapriya & Ors. (2005) 6 SCC 236 has held that the amount of compensation that may be apportioned between the wife, children and mother of the deceased should be in the ratio of 40:40:20. Considering the said decision, the balance amount of money payable to the claimants/respondent Nos. 1 to 3 and 5 will be divided in similar proportions. In

other words, the respondent No. 1 shall get 40%, the respondent Nos. 2 and 3 as children of the deceased will be entitled to an equal share of the 40% and the remaining 20% should be given to the mother of the deceased i.e., the respondent No. 5. The share of compensation of the respondent Nos. 1 and 5 i.e., 40% and 20% should be kept in a fixed deposit for a minimum period of 5 (five) years."

9. Paragraph 22 of the said order is also required to be suitably corrected and therefore, paragraph 22 shall now be read as follows:

"22. In so far as the share of the respondent Nos. 2 and 3 are concerned, the same shall be kept in a fixed deposit and maintained till they attain the age of majority. The interest payable to the claimants shall be calculated from the date of filing of the claim application till the date of final payment on the balance amount due. Interest however shall not be calculated on the amount which has already been paid by the appellant Insurance Company."

10. This order shall be read together with the judgment and order dated 15.05.2019 passed in MAC Appeal No. 156/2014.

11. Accordingly, this application stands allowed to the extent as indicated above.

JUDGE

Comparing Assistant