

GAHC010288392019



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

Case No. : I.A.(Civil)/3879/2019

ORIENTAL INSURANCE CO. LTD.
HAVING ITS REGISTERED OFFICE AT ORIENTAL HOUSE, A-25/27, ASAF ALI
ROAD, NEW DELHI-110002 AND REGIONAL OFFICE AT GUWHATI-7,
REPRESENTED BY THE REGIONAL MANAGER

VERSUS

TANKESWAR SAIKIA AND 3 ORS.
S/O LATE BIBHURAM SAIKIA, R/O MORIKALONG, N.H.-36, P.S.-SADAR,
DIST-NAGAON, ASSAM

2:MD. MAINUDDIN AHMED
S/O ABDUL RASHID
R/O S.S. ROAD
DHING ROAD
HAIBARGAON
P.S.-SADAR
DIST-NAGAON
ASSAM (OWNER OF TATA SUMO BEING NO. AS-02/A-8657)

3:TRIDEEP KR. HAZARIKA
S/O LATE H.C. HAZARIKA
R/O SAPTAGIRI PATH
HATIGAON
GUWAHATI-781005
ASSAM (OWNER OF MARUTI WAGON R BEING NO. AS-01/T-3022)

4:NATIONAL INSURANCE CO. LTD.
WITH MARUTI INSURANCE
P/NO. 8257744 VALID UPTO 05.9.05
C/O BIMAL AUTO AGENCY
GUWAHATI

ASSAM
(INSURER OF MARUTI WAGON R BEING NO. AS-01/T-3022)

Advocate for the Petitioner : MR SISHIR DUTTA

Advocate for the Respondent : MR. R GOSWAMI (R4)

Linked Case :

ORIENTAL INSURANCE CO. LTD.

VERSUS

TANKESWAR SAIKIA AND 3 ORS. (C)

Advocate for :

Advocate for : appearing for TANKESWAR SAIKIA AND 3 ORS. (C)

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

29. 03. 2023

Mr. S Dutta, learned counsel for the applicant submits that respondent No. 3 is not a necessary party for determination of the issues involved in the connected appeal as well as for the purpose of the present application. He further contends that there is no dispute regarding the ownership of the vehicle, which is involved in the accident. The only dispute as raised by the Insurance Company is that the offending vehicle was not insured on the date of accident. Therefore, the award of pay and recovery has been challenged. The vehicle,

which is owned by respondent No. 3 though was also involved with the accident, there is no dispute regarding the contributory of composite negligence in the connected appeal. Therefore, Mr. Dutta prays that the name of respondent No. 3 be deleted from the array of parties.

Without going into the merit of such claim, on the prayer of Mr. Dutta, the name of respondent No. 3 be deleted from the array of parties at the risk of the applicant.

Perused the affidavit on dasti service. Service upon the respondent No. 1 is accepted. The respondent No. 4 has also been duly served and being represent by Ms. M Saikia, learned counsel. None appears for the respondent No. 2 though notice has duly been served upon respondent No. 2.

This is an application for condonation of delay of 1981 days in preferring the connected appeal by the appellant against the judgment and award dated 05.02.2014 passed by the learned Member, Motor Vehicles Accident Claims Tribunal, Nagaon in MAC case No. 253/2005.

The delay is explained at paragraph 4 and 5 of the application. Ms. Saikia, learned counsel in her usual fairness submits that she has no objection if the delay is condoned.

Considering the submissions of the learned counsel as well as the pleadings made in the paragraph 4 and 5 of the connected application, this court is of the considered opinion that the present applicant was prevented by sufficient cause in preferring the connected appeal within time.

Accordingly, the delay is condoned.

IA stands disposed of.

Registry to register the connected appeal if same is not defective and list in the admission column after three weeks.

The name of Ms. M Saikia, learned counsel for the respondent No. 4 be shown in the cause list.

JUDGE

Comparing Assistant