

GAHC010076782024



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

Case No. : Review.Pet./146/2024

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

VERSUS

ROOPJYOTI KALITA @ GOGOI AND 4 ORS
(ON THE DEATH OF NIBHA KALITA) W/O LATE SRIMANTA KALITA

2:PRIYANKA KALITA

D/O LATE SRIMANTA KALITA

3:SMT. PRIYADARSIKA KALITA

D/O LATE SRIMANTA KALITA
ALL THE ABOVE RESPONDENTS ARE R/O C/O BONTI PUSTAKALAYA
P.O. and P.S. GAURISAGAR
DIST. SIVASAGAR
ASSAM.

4:KULADHAR KALITA

S/O LATE KESHA RAM KALITA
R/O BONTI PUSTAKALAYA
P.O. and P.S. GAURISAGAR
DIST. SIVASAGAR
ASSAM OWNER OF MARUTI VAN NO. AS-04/D-0075

5:NRIPEN HAZARIKA

S/O SRI RUPRAM HAZIRAKA
R/O MILON NAGAR

JORHAT
OWNER OF THE OTHER INVOLVED VEHICLE NO. AS-03/A8929 TRUK

Advocate for the Petitioner : MR SISHIR DUTTA, MS S MOCHAHARI,MR. S DUTTA,MR S DUTTA

Advocate for the Respondent : MR. D CHETIA (R-1), MR. M DAS(R-1)

Linked Case : MACApp./1/2017

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

VERSUS

SMT. ROOPJYOTI KALITA @ GOGOI
(ON THE DEATH OF NIBHA KALITA) and 5 ORS.
W/O LATE SRIMANTA KALITA

3:PRIYANKA KALITA
D/O LATE SRIMANTA KALITA

4:SMT. PRIYADARSIKA KALITA
D/O LATE SRIMANTA KALITA
RESPONDENT NOS. 3 AND 4 ARE MINORS REPRESENTED BY RESPONDENT
NO. 2 I.E. MOTHER ALL THE ABOVE RESPONDENTS ARE R/O C/O BONTI
PUSTAKALAYA
P.O. and P.S. GAURISAGAR
DIST. SIVASAGAR
ASSAM.

5:KULADHAR KALITA
S/O LATE KESHA RAM KALITA
R/O BONTI PUSTAKALAYA
P.O. and P.S. GAURISAGAR
DIST. SIVASAGAR
ASSAM OWNER OF MARUTI VAN NO. AS-04/D-0075

7:NRIPEN HAZARIKA

S/O SRI RUPRAM HAZIRAKA
R/O MILON NAGAR
JORHAT

OWNER OF THE OTHER INVOLVED VEHICLE NO. AS-03/A8929 TRUKC

Advocate for : MR. S DUTTA

Advocate for : MR. D CHETIA appearing for SMT. ROOPJYOTI KALITA @ GOGOI
(ON THE DEATH OF NIBHA KALITA) and 5 ORS.

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

28.05.2025

Heard Mr. S. Dutta, learned counsel for the review petitioner and Mr. M. Das, learned counsel appearing for the respondent No.1.

By filing this application under Order 47 Rule 1 read with Section 114 of the CPC, 1908, the review petitioner has challenged the judgment and order of this Court dated 11.03.2024 in MAC Appeal No. 1/2017 with a prayer to review the order on the ground of future prospect.

It is submitted by the learned counsel for the petitioner that this Court vide order dated 11.03.2024 awarded a total amount of Rs.10,23,981/- to the claimants along with 6% interest from the date of restoration i.e. on 06.06.2012 till its realization.

It is also submitted that this Court although in para 11 of the judgment held that with regard to future prospect this Court is also of the view that there cannot be any interest on future prospect as the same relates to an income to be given in the future. However, subsequently, this Court in para 21 of the judgment directed the insurance company to deposit an amount of Rs.10,23,981/- along with 6% of interest from the date of restoration till its realization.

According to learned counsel for the review petitioner, this Court ought to have clarified the fact that out of the total award of Rs.10,23,981/- the amount towards future prospect will not carry 6% interest. Therefore, this is an error apparent on the face of the record in terms of Order 47 Rule 1 CPC and prayed to review the order.

I have considered the submission of the learned counsel for the applicant. I have also perused the judgment dated 11.03.2024 in MAC Appeal No. 1/2017. Para 11 of the judgment deals with future prospect which is as follows:

“Admittedly, the factum of accident has not been challenged in this appeal. The question is whether the interest on future prospect be awardable in the case. In the case of Champabadi Ray (supra), it is elaborately discussed regarding interest on future prospect which is reproduced as follows:

"In the case of Khusbu Chirania @ Kanta Chirania vs Kamal Kumaar Srivastaba (2018) 0 Supreme (Gau) 966 and in the case of Nasima Begum Vs Keramat Ali (2019) 0 Supreme (Gau) 507, this Court has stated no interest on future prospect should be given. Though no reasons have been enunciated in the aforesaid judgments, the reason for the same seems to be due to the fact that future prospects is relatable to an income to be received in the future and as such there could not be any loss to the claimants for the payment of future prospect, at the time the deceased met with the accident. The reason for awarding interest on the compensation amount minus the future prospect is due to the fact that though the loss of dependency starts from the date of the accident and the compensation amount is computed on the date of the award of the Tribunal, interest is awarded to compensate the loss of money value on account of lapse of time such as time taken for the legal proceedings and for the denial of right to utilize the money when due. However, future prospect is with regard to the probable income to be received in the future and as such there is no requirement to compensate the claimant by way of future interest, for the loss that to be occurred in the future, as the future is yet to happen. Further, future prospect is given for the entire future and as such the claimant is getting compensation in a lump sum under future prospect prior to occurrence of future events".

Thus, with regard to future prospect, this Court is also of the view that there cannot be any interest on future prospect as the same relates to an income to be given in the future."

In the second half of para 11, it is clearly written that with regard to future prospect, this Court is also of the view that there cannot be any interest on future prospect as the same relates to an income to be given in the future. As such, the question of review of the order on future prospect does not arise. It is clearly written in the judgment that the awarded amount does not carry the interest on future prospect.

Hence, this Court does not find any error apparent on the face of the order dated 11.03.2024 in MAC Appeal No. 01/2017.

Hence, review petition is dismissed.

This interlocutory application accordingly stands disposed of.

JUDGE

Comparing Assistant