

GAHC010019782022



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

Case No. : MACApp./66/2022

PRONAMI BORKOTOKY @ PRONAMI BORKOTOKY KALITA AND ANR
W/O LATE BASANTA KALITA,
RESIDENT OF KOINADHARA, PS BASISTHA, DIST KAMRUP(M) ASSAM

2: MASTER PRIYANUJ KALITA

S/O LATE BASANTA KALITA

RESIDENT OF KOINADHARA
PS BASISTHA
DIST KAMRUP(M) ASSAM BEING MINOR TO BE REPRESENTED BY HIS
NATURAL GUARDIAN
I.E APPELLANT NO.

VERSUS

GAUTAM CHUTIA AND ANR.
S/O MOHAMMAD ALI,
RESIDENT OF VILLAGE BHERIBHERI, PS DHULA, DIST DARRANG,
ASSAM, 784525

2:ORIENTAL INSURANCE CO. LTD.
A COMPANY REGISTERED UNDER THE COMPANIES ACT
1956
REPRESENTED BY ITS REGIONAL MANAGER
ULUBARI
GUWAHATI-78100

Advocate for the Petitioner : MR D MONDAL

Advocate for the Respondent : MR D DEKA (R2)

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

Date : 12.02.2024

Heard Mr. D.Mondal, learned counsel for the appellant and Mr. D.Deka, learned counsel for the respondent No.2 insurance company.

In MAC Appeal 1417/2014, the appellant was claimant wherein she filed her evidence of affidavit but she could not produce herself before the tribunal for cross-examination by the insurance company. Therefore, learned tribunal dismissed the same.

It appears that the learned tribunal has erroneously interpreted the judgment of this court that was delivered in the case of *Jyoti Rani Debnath (Das) –vs- Jyotsna Debnath & Ors* reported in 2008 (suppl) GLT 161.

The learned counsel for both sides agreed that this is a fit case for remand and therefore the impugned judgment dated 26.02.2020 passed by the learned Member, MACT No.2, Kamrup (M), Guwahati in MAC Appeal 1417/2014 is hereby set aside.

The matter is remanded back to the learned tribunal. The learned tribunal shall provide one opportunity to the petitioner for her cross –examination by the insurance company and thereafter, shall proceed to dispose of the case in accordance with law.

The MAC Appeal stands disposed of with the aforesaid directions.

JUDGE

Comparing Assistant