

GAHC010173682016



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

CRP/392/2016

SMT. RUPAYA RABON
D/O. LT. WANSUK SHADAP
VILL. SHANGPUNG POHSHNONG
P.S. JOWAI
DIST. JAINTIA HILLS
MEGHALAYA
PIN-793150.

VERSUS

THE INCHARGE
DARBAR SHANGPUNG POHSHNOG and 3 ORS
VILL. SHANGPUNG
DIST. JAINTIA HILLS
MEGHALAYA
PIN-793150.

2:THE NATIONAL INSURANCE CO. LTD.
REP. BY THE DIVISIONAL MANAGER THE NATIONAL INS. CO. LTD.
CLUB ROAD
CAPITAL TRAVELS BUILDING
P.O. SILCHAR-1
DIST. CACHAR
ASSAM.
4:RELIANCE GENERAL INS. CO. LTD.
REP. BY THE MANAGER RELIANCE GENERAL INS. CO. LTD.
DIHANG ARCADE
4TH FLOOR
A.B.C.
G.S. ROAD
GHY.-04
DIST. KAMRUP

ASSAM.

Advocate for the petitioner(s): Mr. S Dutta
Senior Advocate

Advocate for the respondent(s): Mr. AJ Saikia

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

13.05.2024

This is an application under Article 227 of the Constitution challenging the order dated 20.07.2016 passed by the learned Member, Motor Accident Claims Tribunal, Silchar in MAC Case No.319/2010 whereby the claim proceedings was returned on the ground that the learned Tribunal did not have the jurisdiction.

2. This is a blatant case of misuse of Section 166(2) of the Motor Vehicles Act, 1988 (for short, the Act of 1988) inasmuch as, the legislature for the convenience of the claimant had conferred jurisdiction to file the claim petition before the Claims Tribunal in various jurisdictions. The said provision in the opinion of this Court is a provision in order to aid and facilitate the claimant so that he/she can with least difficulty file the claim applications.

3. In the instant case, the claimant, admittedly, resides in the village of Shangpung in the District of Jaintia Hills, Meghalaya. The accident took place under the jurisdiction of Jowai Police Station and has been registered as Jowai

Police Station Case No.06(01)09 under Sections 279/304 (A)/338 of the Indian Penal Code, which falls in the district of Jaintia Hills Meghalaya. The Doctors and the Surgeons of Forensic Department, Jowai Civil Hospital duly attended to the deceased. The victim as claimed was a labourer of Mahindra Mini Truck bearing registration No.ML-04A/1643. The said vehicle belonged to the In-charge, Darbar, Shangpung Pohshnong, who is a resident of the district of Jaintia Hills Meghalaya. The Driver of the vehicle i.e., Mahindra Mini Truck is a resident of the district of Jaintia Hills Meghalaya. The owner of the other offending vehicle i.e. Truck No.AS 01Y/0236, one Sri Kailash Chandra Sarma is a resident of Guwahati and the driver of the said truck is also a resident of Guwahati. Under such circumstances, it is not known as to why the claim petition was filed before the Member, Motor Accident Claims Tribunal Cachar at Silchar.

4. In blatant abuse of the process, the Insurance Company i.e. the National Insurance Company Ltd., which undoubtedly has various Divisional Offices including an Office at Silchar has been impleaded to confer jurisdiction. The resultant effect of filing the claim petition in a place which would cause great difficulty to the claimant is apparent from the fact that in MAC Case No.319/2010, though the claim petition was filed in the year 2010, no steps were taken on more than 20(twenty) occasions from 14.08.2012 to 20.07.2016 on the ground of absence of the claimant. The period which has been mentioned in the impugned order dated 20.07.2016 really shocks this Court as to why the said claim petition was filed at Silchar, if it was not convenient to the claimant, although Section 166 (2) of the Act of 1988 enabled the claimant to file the claim petition in the district wherein the claimant is a resident of. The question, therefore, arises as to whether the said claim petition was filed for the

benefit of the claimant or for some other person, *inasmuch as*, the Act of 1988 and, more particularly, the provisions relating to claim have been held to be a beneficial and welfare legislation for the benefit of the claimant and not for certain other persons.

5. This Court has also taken note of the impugned order dated 20.07.2016 whereby the learned Motor Accident Claims Tribunal, Silchar had held that the said Tribunal had no jurisdiction to try the instant case, which has been impugned in the instant proceedings. In the opinion of this Court, the observations so made in the impugned order dated 20.07.2016 does not call for any interference by this Court, for which the instant petition stands dismissed.

6. Before parting, this Court finds it relevant to observe that this is a case wherein the counsel who had filed the claim petition ought to have been taken to task by the Claims Tribunal, as it was not only a gross abuse of the provisions of Section 166(2) of the Act of 1988, but also was not in the interest of the claimant, who unfortunately on account of the counsel, who filed the claim petition had to suffer this ordeal. However, the said counsel is not before this Court. Under such circumstances, this Court, would, therefore, leave it there.

7. With the above, the revision petition stands dismissed.

JUDGE

Comparing Assistant