

GAHC010036842024



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

Case No. : I.A.(Civil)/577/2024

NILAMONI DEKA
S/O SRI PADMA RAM DEKA,
VILL.- SUWALKUCHI (TILOKSON PAHAR), P.O. AND P.S.- SUWALKUCHI,
DIST.- ASSAM, PIN- 781103.

VERSUS

NATIONAL INSURANCE COMPANY LIMITED
A COMPANY REGISTERED AND INCORPORATED UNDER THE COMPANIES
ACT, 1956, HAVING ITS REGISTERED OFFICE AT 3, MIDDLETON STREET,
KOLKATA AND ONE OF ITS REGIONAL OFFICE AT G.S. ROAD,
BHANGAGARH, GUWAHATI, REPRESENTED BY ITS REGIONAL
MANAGER, GUWAHATI (ASSAM).

Advocate for the Petitioner : MR D MONDAL,

Advocate for the Respondent : MRS. S ROY,

BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE

ORDER

Date : 25-10-2024

Heard Mr. D. Mondal, learned counsel for the applicant and also heard
Mrs. S. Roy, learned counsel for the sole opposite-party/appellant.

By filing this application, the applicant has prayed for allowing the applicant to withdraw 50% of the awarded amount which has been deposited before the Registry of this Court in terms of the order dated 01.12.2023 passed in IA(C) 3472 of 2023 in the connected MAC Appeal 425 of 2023.

Mr. D. Mondal, learned counsel for the applicant submits that the accident had occurred way back in 2017 and till date the applicant has not received any penny of the awarded amount. He submits that in view of non receipt of any amount of the awarded amount, the applicant is facing untold miseries and hardships which has occurred due to such accident. Therefore, he submits that the applicant may be allowed to withdraw 50% of the awarded amount deposited by the appellant in terms of the order of this Court.

Ms. S. Roy on the other hand while objecting to the prayer for withdrawal of 50% of the awarded amount deposited before the Registry of this Court, submits that the deceased was riding her scooter in a drunken condition and the accident had occurred due to rash and negligence driving of the deceased. Therefore, there is every chance of allowing the connected appeal. Therefore, the applicant is not entitled to withdraw the 50% of awarded amount as deposited.

Having considered the submissions of the learned counsel for the parties and on the perusal of the materials, I deem it appropriate to allow this applicant and to withdraw the 50% of the awarded amount as deposited before the Registry of this Court.

Accordingly, the applicant is allowed to withdraw the 50% of the awarded amount as deposited from the Registry of this Court by furnishing indemnity bond of the like amount. The Registry is directed to release the 50% of the

awarded amount to the applicant deposited by the appellant after proper identification.

The IA stands allowed and disposed of.

JUDGE

Comparing Assistant