

GAHC010064082021



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

Case No. : MFA/84/2021

NEW INDIA ASSURANCE COMPANY LTD.
HAVING ITS REGISTERED OFFICE AT NEW INDIA ASSURANCE BUILDING
87, MAHATMA GANDHI ROAD, MUMBAI AND ONE OF THE NORTH EAST
REGIONAL OFFICE AT G.S. ROAD, LACHIT NAGAR, GUWAHATI.

VERSUS

SUREN NAIEK AND ANR.
S/O- PUSKAR NAIEK, R/O- VILL.- NAHORJAN, TEA ESTATE, P.O. AND P.S.
BOKAKHAT, DIST.- GOLAGHAT, ASSAM.

2:NAHORJAN TEA ESTATE
REP. BY ITS MANAGER
P.O. AND P.S. BOKAKHAT
DIST.- GOLAGHAT
ASSAM

Advocate for the Petitioner : MR. K K BHATRA

Advocate for the Respondent : MR. J BARMAN

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 06.06.2024

Heard Mr. A K Bhatra, learned counsel for the appellant as well as Mr. H P Guwala, learned counsel for the respondents.

This appeal has been filed under Section 30 of the Employees Compensation Act, 1923 challenging the Judgment and Order dated 27.01.2021 passed by the Commissioner, Employees

Commission, Golaghat in E.C. Case No. 15/2016.

The background of this appeal is like this : The respondents filed an application seeking compensation under the Employees Compensation Act of 1923. The Insurance Company was the opposite party in that case. After several dates, the Insurance Company could not file the written statement. Therefore, the learned Commissioner, Employees Commission, Golaghat proceeded ex-parte against the Insurance Company and awarded the compensation.

Today, I have heard the learned counsel of both sides at length.

Mr. Bhatra has pointed out several points while challenging the impugned order.

Mr. Guwala has submitted that it is the negligence on the part of the Insurance Company which resulted in passing of the impugned order.

I have considered the submission made by the learned counsel for both the sides.

This court is of the opinion that the Insurance Company should be given one opportunity to file the written statement and to contest the case. Therefore, the appeal is allowed.

The impugned Judgment and Order dated 27.01.2021 passed by the Commissioner, Employees Commission, Golaghat in E.C. Case No. 15/2016 is set aside.

The matter is remanded to the Commissioner, Employees Commission, Golaghat. The Commissioner shall provide at least one opportunity to the Insurance Company to file written statement. If the Insurance Company fails to file the written statement, the Commissioner shall be at liberty to proceed ex-parte against the Insurance Company.

Further, the Insurance Company shall be at liberty to adduce evidence and to cross-examine the witnesses of the claimants.

The Commissioner shall endeavour to dispose of the case within next 6 (six) months of receiving the copy of this order.

The 50% awarded amount which was deposited by the Insurance Company in the Registry of this court shall be returned to the Insurance Company.

With the above, the appeal stands disposed of.

JUDGE

Comparing Assistant