

GAHC010070422024



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

Case No. : I.A.(Civil)/1142/2024

THE MANAGING DIRECTOR,
ASSAM STATE TRANSPORT CORPORATION LTD. PALTANBAZAR, P.S.
PALTANBAZAR, GUWAHATI, DIST. KAMRUP, ASSAM.

VERSUS

HEMA PROVA CHUTIA and ANR.
W/O LATE GUNA KANTA CHUTIA, R/O TIPLING NALONI PATHAR, P.S.
DULIAJAN, DIST. DIBRUGARH

2:MD. SHAH ALAM AHMED

S/O LATE ALLAUDDIN AHMED
R/O WARD NO. 7
NORTH LAKHIMPUR
DIST. NORTH LAKHIMPUR
ASSAM

Advocate for the Petitioner : MR. C CHAKRAVARTY

Advocate for the Respondent : MR D MONDAL

Linked Case : MACApp./126/2014

THE MANAGING DIRECTOR

ASSAM STATE TRANSPORT CORPORATION LTD. PALTANBAZAR
P.S. PALTANBAZAR

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ASSAM.

Advocate for : MS.B SHARMA

Advocate for : MR D MONDAL (R1) appearing for HEMA PROVA CHUTIA and ANR.

**BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

21.05.2024

1. Heard Mr. D. Das, learned counsel for the applicant. Also heard Mr. D. Mondol, learned counsel for the respondents.
2. This application is filed praying for reconsideration/modification/recall/alteration of the order dated 18.08.2022 passed by this Court in MAC Appeal No. 126/2014 along with other connected matters wherein specific direction was issued to the present applicant/appellant to deposit 50% of the decretal amount passed in MAC Case No. 1663/2022, MAC Case No. 1664/2011 and MAC Case No. 1665/2011 by the learned Motor Accident Claims Tribunal No. 2, Kamrup (M) at

Guwahati before the Registry of this Court.

3. The applicant is the respondent in MACApp./126/2014. The connected appeals are preferred challenging the judgment and award dated 20.12.2013 passed in MAC Case No. 1663/2022, MAC Case No. 1664/2011 and MAC Case No. 1665/2011.
4. The accident took place on 05.07.2011, wherein the present respondent lost her son, daughter-in-law and grand-daughter. The appeals were filed on 10.04.2014.
5. Though notices were issued on 30.04.2014, the appeals were admitted only on 09.05.2022, after condonation of delay.
6. Though applications for stay of the connected appeals were preferred, neither those were pressed nor any orders have been passed in those applications.
7. Considering that the appeals were preferred primarily on the ground of contributory negligence on the part of the deceased son of the appellant, this Court under its order dated 18.08.2022 directed deposit of 50% of the awarded amount passed in MAC Case No. 1663/2022, MAC Case No. 1664/2011 and MAC Case No. 1665/2011, before the Registry of this Court within a period of four weeks. The present application is filed praying for modification of the aforesaid order.
8. The grounds urged by the learned counsel for the applicant is that only 25,000/- is required to be deposited in terms of the Motor Vehicles Act, 1988, and therefore, such order of direction of 50% deposit should be recalled. The other ground is that the applicant/ Corporation, is going through financial problems and therefore, they are not in a position to deposit such amount.
9. This Court has given anxious consideration to the submissions advanced by the

learned counsel for the parties. Also perused the material available on record.

10. Section 169 (4) of the M.V. Act, 1988, empowers the enforcement of its award by the claim Tribunal having all power of Civil Court in the execution of a decree under the Code of Civil Procedure, 1908, as decree for the payment of money, passed by such court. At the same time Order 41 Sub-Rule 3 of Code of Civil Procedure, 1908, provides that when the appeal is against the decree for payment of money, the appellant needs to deposit the amount disputed in the appeal or to furnish such security in respect thereof. This Court is the considered opinion that an award passed in claim case is akin to a decree for payment of money.
11. In view of the aforesaid, the first contention raised by the learned counsel stands rejected. The second ground is not a sustainable ground inasmuch as financial distress cannot be a ground not to pay the compensation or part thereof, that too in a case, where a direction has been issued by a competent court.
12. Accordingly, the present application stands dismissed.

JUDGE

Comparing Assistant