

GAHC010071042024



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

Case No. : MACApp./153/2024

CHAKIYA BIBI AND 2 ORS
W/O LATE SANTAR ALI,
RESIDENT OF VILLAGE GERAMARI PART II, PO GERAMARI, PS
GAURIPUR, DIST DHUBRI, ASSAM 783339

2: SAKIZUR ALI @ SAKIZUR HOQUE
S/O LATE SANTAR ALI

RESIDENT OF VILLAGE GERAMARI PART II
PO GERAMARI
PS GAURIPUR
DIST DHUBRI
ASSAM 783339

3: SONJUMA BEGUM
D/O LATE SANTAR ALI

RESIDENT OF VILLAGE GERAMARI PART II
PO GERAMARI
PS GAURIPUR
DIST DHUBRI
ASSAM 783339
REP. BY HER MOTHER PET. NO.

VERSUS

HUSSAIN ALI SK AND ANR
S/O SAHIR ALI SK,
RESIDENT OF WARD NO. 10 DHUBRI, PO AND PS DHUBRI, ASSAM

2: THE ORIENTAL INSURANCE CO. LTD.
REPRESENTED BY ITS ADDY. MANAGER GODREJ BUILDING
GS ROAD
ULUBARI

GUWAHATI ASSAM 78100

Advocate for the Petitioner : MRS. K DEVI

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 08.04.2024

Heard the learned counsel Mr. J. Kalita appearing for the appellants.

This is an application under Section 173 of the Motor Vehicle Act, 1988 challenging the order dated 07.03.2024 passed by the MACT, Dhubri in MAC Case No.07/2024(Death).

The accident took place on 23.11.2022 and the claim application was filed on 03.02.2024. The Tribunal by referring to Section 166(3) of the Motor Vehicle Act dismissed the claim application.

Mr. Kalita has pointed out that police report under Section 173 of the Cr.P.C. was sent to the Court of the Chief Judicial Magistrate, Dhubri on 29.12.2022. According to Mr. Kalita, Sub-Section (4) of Section 166 of the Motor Vehicle Act states that the said report should have been considered as an application for compensation under the Motor Vehicle Act.

I have considered the submissions made by the learned counsel of both sides.

I find force in the submission of Mr. Kalita. The Final Form or Report under Section 173 of the Cr.P.C. was sent to the Court of the CJM, Dhubri on 29.12.2022. According to Sub-Section (4) of Section 166 of the Motor Vehicle

Act, the report should have been accepted as an application paying compensation. The learned Tribunal erroneously dismissed the claim application of the applicants. Therefore, the appeal is allowed. The impugned order dated 07.03.2024 passed by the MACT, Dhubri in MAC Case No.07/2024(Death) is set aside.

The Tribunal is directed to dispose of the claim application in accordance with the law laid down in the Motor Vehicle Act.

The appeal stands disposed of accordingly.

JUDGE

Comparing Assistant