

GAHC010050662018



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

Case No. : MACApp./289/2018

NEW INDIA ASSURANCE COMPANY LTD.
HAVING ITS REGISTERED OFFICE AT NEW INDIA ASSURANCE BUILDING
87, MAHATMA GANDHI ROAD, MUMBAI AND ONE OF THE REGIONAL
OFFICE AT G.S. ROAD, ABC, GUWAHATI AND ONE OF ITS BRANCH OFFICE
AT NALBARI

VERSUS

KABITA THAPA AND 2 ORS
W/O LATE TEZ BAHADUR THAPA, PERMANENT R/O VILLAGE GARMARA,
PO CHARIDUAR, PS CHARIDUAR, DIST. SONITPUR, ASSAM

2:LOISE JEBISOW
D/O P.K. JEBISOW
R/O LOWER BHALUKPONG
PO BHALUKPONG
PIN-790114
DIST. WST KAMENG
ARUNACHAL PRADESH
OWNER OF VEHICLE NO. AR-01-F/5370 (MAHINDRA XILO
LMV)

3:TONKEY JEBISOW
S/O LATE KHARU JEBISOW
R/O VILLAGE BHALUKPONG
PO AND PS BHALUKPONG
PIN-79011

Advocate for the Petitioner : MR. K K BHATRA

Advocate for the Respondent : MR D MONDAL(R2 AND 3)

PRESENT

THE HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Appellant: Ms. A. Biyani,
Advocate.

For the Respondents: Mr. J. Kalita,
Advocate

Date of Hearing : 28.05.2024.

Date of Judgment : 25.07.2024.

JUDGMENT AND ORDER (CAV)

Heard Ms. A. Biyani, learned counsel representing the appellant. Mr. J. Kalita, learned counsel representing the respondents.

2. This is an appeal under Section 173 of the Motor Vehicles Act challenging the judgment and award dated 01.11.2017 passed by the Motor Accident Claims Tribunal, Nalbari in MAC Case No.332/2014.
3. On 25.10.2014 at about 4.30 P.M. near Hatigate on Balipara to Bhalukpong PWD Road, Tez Bahadur Thapa was riding his bicycle. He was knocked down by a MAHINDRA XYLO vehicle bearing Registration No.AR-01-F/5370. Tez Bahadur Thapa died instantly. He was 50 years old and has left behind his wife, two sons and one daughter. The MAHINDRA XYLO vehicle bearing Registration No.AR-01-F/5370 was insured under the appellant Insurance Company.
4. The claimants filed the claim petition seeking compensation.
5. The Tribunal awarded a compensation of Rs.9,45,160/- along with interest at the rate of 6% per annum to the claimants. The Tribunal directed the appellant insurance company to pay the compensation.
6. Aggrieved by the aforesaid judgment, the appellant insurance company filed this appeal on the ground that the insurance policy of the offending vehicle was not valid on the date of the accident. According to the insurance company, the said policy was valid up to 03.10.2024 and the accident took place on 25.10.2014.

7. I have considered the submissions made by the learned counsel of both sides.
8. I have gone through the written statement filed before the Tribunal by the appellant insurance company. I have found that the plea that on 25.10.2014 the insurance policy was not valid, was not taken before the Tribunal.
9. The insurance company had examined two witnesses. These two witnesses never deposed anything about the validity of the insurance policy.
10. The term appeal means the judicial examination by a higher court of the decision of an inferior court. Appeal in other word means the removal of a cause from an inferior court to superior court for purpose of testing the soundness of the decision of inferior court. An appeal in legal parlance is held to mean the removal of a cause from an inferior or subordinate to superior tribunal or forum in order to test and scrutinize the corrections of impugned decisions.
11. This Court is of the opinion that the learned Tribunal has not committed any error in passing the impugned judgment. It has correctly appreciated the evidence on record and arrived at a correct finding.
12. The appeal is found to be devoid of merit and stands dismissed and disposed of.

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JUDGE

Comparing Assistant