

GAHC010101982024



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

Case No. : I.A.(Civil)/1560/2024

RASHIDA BEGUM AND 4 ORS
W/O LATE RAFIK ALI, R/O VILL. KANDAPARA UNDER P.O. KADONG, P.S.
BARPETA, DIST. BARPETA, ASSAM, 781314

VERSUS

NEW INDIA ASSURANCE CO. LTD.
A CO. REGISTERED UNDER THE COMPANIES ACT, 1956 REPRESENTED BY
ITS REGIONAL MANAGER, G.S. ROAD, GUWAHATI-7

2:RUFIDA KHATUN (MINOR DAUGHTER)
D/O LATE RAFTIK ALI
R/O VILL. KANDAPARA UNDER P.O. KADONG
P.S. BARPETA
DIST. BARPETA
ASSAM 781314

3:RUBIA KHATUN (MINOR DAUGHTER)
D/O LATE RAFIK ALI
R/O VILL. KANDAPARA UNDER P.O. KADONG
P.S. BARPETA
DIST. BARPETA
ASSAM 781314

4:JAMIRAN NESSA (MOTHER)
M/O LATE RAFIK ALI
R/O VILL. KANDAPARA UNDER P.O. KADONG
P.S. BARPETA
DIST. BARPETA
ASSAM 781314

5:TAHAJ UDDIN (FATHER)
F/O LATE RAFTIK ALI
(RESPONDENT NO. 2 AND 3 BEING MINOR ARE REPRESENTED BY THEIR

NATURAL GUARDIAN I.E.MOTHER
RASHIDA BEGUM
THE RESPONDENT NO. 1) R/O VILL. KANDAPARA UNDER P.O. KADONG
P.S. BARPETA
DIST. BARPETA
ASSAM 78131

Advocate for the Petitioner : MR. M AHMED,

Advocate for the Respondent : MR. A ACHARYA, MR. A ACHARYA

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

12.08.2024

Heard Mr. D. Mondal, learned counsel for the applicants/respondents and Mr. A. Acharya, learned counsel for the opposite party/appellant.

2. This application, is preferred by 7 applicants for directing the Registry of this Court to release 30% of the awarded amount deposited by the opposite party in compliance to order dated 06.09.2021, passed in I.A.(C) No. 727/2021, arising out of MAC Appeal No. 80/2021, in favour of the applicants along with accrued interest on the deposited amount.

3. Mr. Mondal, learned counsel for the applicants submits that while admitting the appeal against the judgment and award, passed by the learned Member, Motor Accident Claims Tribunal, Barpeta, in MAC Appeal No. 138/2019, this Court was pleased to direct the opposite party/appellant to deposit 30% of the awarded amount before the Registry of this Court and pursuant to the said order, the opposite party/appellant had deposited 30% of the awarded amount, i.e. Rs. 5,80,080/- before the Registry of this Court and that this application is preferred for directing the Registry of this Court to release the said 30% of the awarded amount.

4. Per-contra, Mr. Acharya, learned counsel for the opposite party has opposed the petition on the ground that the deceased was a gratuitous passenger in a mini truck, which was not authorized to carry any passenger and that once the amount is released, it would be difficult to recover in the event of allowing the appeal preferred by the opposite party herein.

5. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record and also perused the order of this Court dated 06.09.2021, passed in I.A.(C) No. 727/2021.

6. Having considered all the facts and circumstances as well as the submissions of learned counsel for both the parties, and also the statement, object and reason behind enacting the M.V. Act which is a social welfare piece of legislation, this Court is inclined to allow the application.

7. Accordingly, it is provided that on furnishing a bond of equal amount, the amount deposited before the Registry of this Court shall be released in favour of the applicants.

8. In terms of above, this I.A. Stands disposed of.

JUDGE

Comparing Assistant