

GAHC010103002024



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

Case No. : I.A.(Civil)/1559/2024

REKHA SAIKIA AND 2 ORS.
W/O LATE DILIP SAIKIA,
RESIDENT OF VILLAGE CHARING BARWATI GAON, PO CHARING, PS
GAURISAGAR, DIST SIVASAGAR, ASSAM 785661

2: MISS BORSHA SAIKIA

D/O LATE DILIP SAIKIA
RESIDENT OF VILLAGE CHARING BARWATI GAON
PO CHARING
PS GAURISAGAR
DIST SIVASAGAR
ASSAM.

3: SRI DIGBIJOY SAIKIA

S/O LATE DILIP SAIKIA
RESIDENT OF VILLAGE CHARING BARWATI GAON
PO CHARING
PS GAURISAGAR
DIST SIVASAGAR
ASSAM

VERSUS

UNITED INDIA INSURANCE CO. LTD.
HAVING ITS REGISTERED AND HEAD OFFICE AT 24 WHITES ROAD,
CHENNAI 600014 AND ONE OF THE REGIONAL OFFICE AT GS ROAD,
DISPUR, GUWAHATI 781005

Advocate for the Petitioner : MR D MONDAL,

Advocate for the Respondent : MR. A J SAIKIA,

Linked Case : MACApp./157/2022

UNITED INDIA INSURANCE CO. LTD.
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CHENNAI 600014 AND ONE OF THE REGIONAL OFFICE AT GS ROAD
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VERSUS

REKHA SAIKIA AND 4 ORS.
W/O LATE DILIP SAIKIA

RESIDENT OF VILLAGE CHARING BARWATI GAON
PO CHARING
PS GAURISAGAR
DIST SIVASAGAR
ASSAM 785661

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D/O LATE DILIP SAIKIA

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D/O LATE DILIP SAIKIA

RESIDENT OF VILLAGE CHARING BARWATI GAON
PO CHARING
PS GAURISAGAR
DIST SIVASAGAR
ASSAM 785661

4:MD. ROFIKUL HUSSAIN
S/O LATE HAIDAR ALI

RESIDENT OF VILLAGE DEHAJAN
PO AND PS DEMOW
DIST SIVASAGAR
ASSAM
785662

5:SRI DULU GOGOI
S/O LATE LAKHIRAM GOGOI
RESIDENT OF VILLAGE SIMALUGURI RAILWAY COLONY
PS SIMALUGURI
DIST SIVASAGAR
ASSAM
785686

Advocate for : MR. A J SAIKIA

Advocate for : MS. R R SARMAH BARUAH appearing for REKHA SAIKIA AND 4
ORS.

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 29.07.2024

- 1.** Heard Mr. D. Mondal, learned counsel for the applicants/claimant. Also heard Mr. A. J. Saikia, learned counsel appearing for the Insurance Company/Opposite Party.
- 2.** This Interlocutory Application has been filed by the applicants/claimant praying for release of the 50% of the awarded amount, which was deposited by the appellant/Insurance Company before the Registry of this Court in pursuant to the order dated 09.06.2023 passed by I.A. (Civil)/3870/2022 arising out of MAC APP. No.157/2022.
- 3.** Learned counsel for the applicants has submitted that the impugned judgment and award which has been challenged by the Insurance Company in the connected MAC APP. No.157/2022. An amount of Rs. 20,97,400/- was awarded to the applicants/claimant by the Tribunal, however, even after lapse of

such a long period of time after passing of the impugned award, the applicants/claimants have not received even a single penny of the awarded amount, for which they are facing undue hardship due to the death of the sole bread earner of the family.

4. Learned counsel for the applicants has also submitted that the Insurance Company led no evidence during the inquiry before the Motor Accident Claims Tribunal and there is unlikelihood of the appeal filed by them being decided in favour of the appellant.

5. On the other hand, learned counsel for the opposite party/Insurance Company has submitted that there is every likelihood that the appellant may get a favourable order in the appeal filed by them and in that event they would be absolved of their liability to pay the compensation to the opposite party to the applicant/claimant.

6. Learned counsel for the Insurance Company has also submitted that the plea taken by the Insurance Company in this appeal that the vehicle which was shown to be involved in the accident and which was insured by the Insurance Company was in fact not involved in the accident in question.

7. He submits that same would be apparent from the testimony of PW-2 who deposed before the G. R. Case No. 2283/2015 wherein he deposed as a witness and had stated that he had not seen the accident. However, to counter the claim of the applicants/claimants, the Insurance Company did not adduce any evidence during the enquiry before the Tribunal. They have only made for requisitioning the case record of the concerned G. R. Case No. 2283/2015.

8. It is also submitted by learned counsel for the applicant that an award passed in Motor Accident Claims case is akin to a money decree in favour of the claimant. He also submits that ordinarily the execution of the money decree is

not stayed in as much as the satisfaction of money decree does not amount to irreparable injury in the event of appeal being allowed, the remedy of restitution is always available to the successful parties.

9. I have considered the submissions made by learned counsel for both the sides and have perused the materials available on record.

10. It is true that in this case the compensation was awarded to the applicants/claimants way back in the year 2022 and till date they are deprived of the fruits of the said award.

11. This Court is of considered opinion that under the facts and circumstances if the applicants/claimants are allowed to take the 50% of the deposited money subject to furnishing of an indemnity bond, no injury would be caused to the appellant/Insurance Company in the event of appeal being decided in their favour.

12. In view of the above, this Interlocutory Application is allowed and the Registry is directed to release the 50% of the awarded amount deposited by the Insurance Company before it, subject to furnishing of indemnity bond by the applicants/claimants to the tune of like amount. In the event of appeal being allowed in favour of the Insurance Company/appellant, the applicants/claimants shall refund the said amount in the Registry of this Court.

13. With the above observation this I.A. is disposed.

JUDGE

Comparing Assistant