

GAHC010107782020



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

Case No. : MACApp./203/2020

MINAKHI BORAH BARUAH AND 3 ORS
W/O LT. SAPAN BARUAH, R/O VILL. BORIGAON, DAKHIN KALABARI, P.S.
GAHPUR, DIST. BISWANATH, ASSAM PRESENTLY RESIDING AT
RUKMINIGAON, P.S. DISPUR, DIST. KAMRUP (M), ASSAM.

2: KOUSTAV BARUAH
S/O LATE SAPAN BARUAH REPRESENTED BY HIS MOTHER SMTI
MINAKSHI BORAH BARUAH
R/O VILL. BORIGAON
DAKHIN KALABARI
P.S. GAHPUR
DIST. BISWANATH
ASSAM PRESENTLY RESIDING AT RUKMINIGAON
P.S. DISPUR
DIST. KAMRUP (M)
ASSAM.

3: SUBHADRA BARUAH
W/O BHADRESWAR BARUAH MOTEHR OF LATE SAPAN BARUAH
R/O VILL. BORIGAON
DAKHIN KALABARI
P.S. GAHPUR
DIST. BISWANATH
ASSAM PRESENTLY RESIDING AT RUKMINIGAON
P.S. DISPUR
DIST. KAMRUP (M)
ASSAM.

4: SMRITI BARUAH
D/O BHADRESWAR BARUAH UNMARRIED SISTER OF LATE SAPAN
BARUAH
R/O VILL. BORIGAON
DAKHIN KALABARI
P.S. GAHPUR

DIST. BISWANATH
ASSAM PRESENTLY RESIDING AT RUKMINIGAON
P.S. DISPUR
DIST. KAMRUP (M)
ASSAM

VERSUS

M/S NEW INDIA ASSURANCE COMPANY LIMITED AND 2 ORS
REPRESENTED BY THE REGIONAL MANAGER, G.S. ROAD, ABC
BHANGAGARH, GUWAHATI-5

2:MD. ABDUL SATTAR
S/O ABDUL JALIL
VILL. CHANDHARA
P.S. TEZPUR
DIST. SONITPUR
ASSAM. (OWNER OF THE VEHICLE NO. AS-01-13G-3021)

3:FIROJ KHAN
S/O LATE MANSUR KHAN
VILL. BESSERIA
MUSLIMGAON
P.S. TEZPUR
DIST. SONITPUR
ASSAM (DRIVER OF THE VEHICLE NO. AS-01-BG-3021)

Advocate for the Petitioner : MR. K BHATTACHARJEE

Advocate for the Respondent : MR. A J SAIKIA (R1)

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

O R D E R

14.05.2024

Heard Mr. K. Bhattacharjee, learned counsel appearing for the appellants. Also heard Mr. A.J. Saikia, learned counsel representing the Insurance Company.

2. This is an application under Section 173 of the Motor Vehicles Act, 1988

challenging the judgment dated 13.03.2020 passed by the learned MACT No.2, Kamrup (M), Guwahati in MAC Case No.2531/2018.

3. The appellants filed the claim petition before the Tribunal seeking compensation on account of death of Sapon Baruah.

4. At the time of hearing of the case, the claimants took several adjournments. On 13.03.2020, the Tribunal held that the claimants/appellants were taking time unnecessarily causing delay in disposal of the case. Therefore, the Tribunal dismissed the claim application on 13.03.2020 for lack of evidence.

5. Today, after hearing both sides, this Court is of the opinion that since the claim petition was filed for the death of a person, the appellants should be given another opportunity to proceed with the case by examining themselves. Therefore, the appeal is allowed.

6. The judgment dated 13.03.2020 passed by the learned MACT No.2, Kamrup (M), Guwahati in MAC Case No.2531/2018, is set aside.

7. The case is remanded to the Tribunal i.e. Motor Accident Claims Tribunal No.2, Kamrup (M), Guwahati. The Tribunal shall give opportunity to the claimants/appellants and her witnesses to be examined and thereafter shall dispose of the case in accordance with the procedure as laid down by law.

8. The appellants/claimants are directed to appear before the Tribunal on 29.05.2024 for receiving further order(s).

With the above observation and direction, the appeal stands disposed of.

JUDGE

Comparing Assistant