

GAHC010125812023



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

Case No. : I.A.(Civil)/1965/2024

THE ORIENTAL INSURANCE CO. LTD.
A COMPANY INCORPORATED UNDER THE COMPANIES ACT
1956
REP. BY ITS REGIONAL MANAGER
ULUBARI
GUWAHATI- 7
DIST.- KAMRUP
ASSAM.

VERSUS

LAXMI BASUMATARY AND 4 ORS. E
W/O LATE ALONGBAR BASUMATARY
VILL.- DONKA-CHINGTHU
KASARIGAON
P.S.- SAMELUNGSO
P.O.- DOKMOKA
DIST.- KARBI ANGLONG
ASSAM. PRESENTLY RESIDING AT MOTHERTOLY
P.O.- MOTHERTOLY
P.S.- DABAKA
DIST.- NAGAON
ASSAM.

2:RANSHRI BASUMATARY
W/O LATE MOHAN BASUMATARY

VILL.- DONKA-CHINGTHU
KASARIGAON
P.S.- SAMELUNGSO
P.O.- DOKMOKA
DIST.- KARBI ANGLONG
ASSAM. PRESENTLY RESIDING AT MOTHERTOLY
P.O.- MOTHERTOLY

P.S.- DABAKA
DIST.- NAGAON
ASSAM.

3:HARSITA BASUMATARY
D/O LATE ALONGBAR BASUMATARY

VILL.- DONKA-CHINGTHU
KASARIGAON
P.S.- SAMELUNGSO
P.O.- DOKMOKA
DIST.- KARBI ANGLONG
ASSAM. PRESENTLY RESIDING AT MOTHERTOLY
P.O.- MOTHERTOLY
P.S.- DABAKA
DIST.- NAGAON
ASSAM.

4:BASIRUDDIN AHMED
S/O MD. A.U. AHMED
C/O ANUP ROY
F.A. ROAD
KUMARPARAWARD NO. 19
H/NO. 184/B
GUWAHATI
KAMRUP (M).

5:MD. HABIBUR RAHMAN
S/O S. HOQUE

VILL.- SIMULUGURI
P.S.- NAGAON
DIST.- NAGAON
ASSAM.

Advocate for : MR. S K GOSWAMI
Advocate for : appearing for LAXMI BASUMATARY AND 4 ORS. E

MACApp./324/2024

THE ORIENTAL INSURANCE CO. LTD.
A COMPANY INCORPORATED UNDER THE COMPANIES ACT, 1956, REP. BY
ITS REGIONAL MANAGER, ULUBARI, GUWAHATI- 7, DIST.- KAMRUP,
ASSAM.

VERSUS

LAXMI BASUMATARY AND 4 ORS. E
W/O LATE ALONGBAR BASUMATARY, VILL.- DONKA-CHINGTHU,
KASARIGAON, P.S.- SAMELUNGSO, P.O.- DOKMOKA, DIST.- KARBI
ANGLONG, ASSAM. PRESENTLY RESIGING AT MOTHERTOLY, P.O.-
MOTHERTOLY, P.S.- DABAKA, DIST.- NAGAON, ASSAM.

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P.O.- DOKMOKA
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P.O.- MOTHERTOLY
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VILL.- SIMULUGURI
P.S.- NAGAON
DIST.- NAGAON
ASSAM

Advocate for the Petitioner : MR. S K GOSWAMI, MR. R SHARMA

Advocate for the Respondent : ,

B E F O R E
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI
ORDER

19.08.2024

Heard Mr. S.K. Goswami, learned counsel for the applicant.

This is an application for stay of the Judgment and Award dated 29.11.2022 passed by the learned Member, Motor Accident Claims Tribunal at Nagaon in MAC Case No. 223/2016.

It appears that the learned Member of the Tribunal passed the Judgment and Award on 29.11.2022 directing the applicant's company to pay an amount of Rs.15,21,000/- only within 30 days from the date of judgment alongwith interest @7.5% per annum from the date of filing the amended petition till date of award and thereafter simple interest on awarded amount shall be computed @9% per annum from the date of award till realization.

Aggrieved and dissatisfied with the aforesaid Judgment and Award, the applicant's company has preferred the present appeal.

Mr. S.K. Goswami, learned counsel for the applicant submits that the impugned Judgment and Award dated 29.11.2022 has been obtained by the claimant by playing fraud.

Perused the aforesaid impugned Judgment and Award and the grounds of appeal made in the accompanying appeal and as well as the averments made in the instant stay application.

It appears that the respondent No. 1 as a claimant filed MAC Case No. 223/2016 before the Motor Accident Claims Tribunal at Nagaon claiming compensation for death of Late Alongbar Basumatary as a result of road traffic accident alleged to be occurred on 01.12.2014. The said Tribunal vide the impugned Judgment dated 29.11.2022 directed the applicant/appellant company to pay an amount of Rs. 15,21,000/- only within 30 days from the date of judgment alongwith interest @ 7.5% per annum from the date of filing the amended claim petition till date of award.

It appears from the evidence on record that the alleged accident occurred on 01.12.2014 and the FIR has been filed on 10.12.2014 i.e. after 9 days of the alleged accident in Howraghat Police Station on the basis of which Howraghat PS Case No. 75/2014 was registered under Section 279/304 A IPC. It further appears that the document of the offending vehicle has been seized by the investigating officer on 5.9.2015 and MVI examined the vehicle on 25.10.2015. It appears that as per GD entry No. 124 dated 8.12.2014 of Howraghat PS, one unknown vehicle has caused the alleged accident. There appears no evidence to indicate as how the vehicle has been traced out and the involvement has been established. Thus, the involvement of the vehicle appears to have not been fully established before the Tribunal.

The contention of Mr. S.K. Goswami is to the effect that the claimant in collusion with the owner of the vehicle has played fraud prima facie appears to be made out.

As such, it appears that the applicant has made out sufficient cause for ex parte stay of the aforesaid judgment and award.

Accordingly, in the interim, this Court directs stay of the operation of the Judgment and Award dated 29.11.2022 passed by the learned Member, Motor Accident Claims Tribunal at Nagaon in MAC Case No. 223/2016 subject to deposit of 50% of the awarded amount before the Registry of this Court within four weeks from receipt of a certified copy of this order.

The IA stands disposed of.

JUDGE

Comparing Assistant