

GAHC010129212018



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

Case No. : MACApp./748/2018

THE ORIENTAL INSURANCE CO. LTD
A COMPANY REGISTERED UNDER THE COMPANIES ACT, 1956.
REPRESENTED BY ITS REGIONAL MANAGER, ULUBARI, GUWAHATI-07

VERSUS

MRS MANJUARA BEWA AND 5 ORS
W/O LATE ROHIM BADSHA
RESIDENT OF VILL PANIKHAITI LOTORIADIA, PO MAHTOLI, PS BOKO
DIST KAMRUP ASSAM

2:MIZANUR RAHMAN
S/O LATE ROHIM BADSHA
RESIDENT OF VILL PANIKHAITI LOTORIADIA
PO MAHTOLI
PS BOKO
DIST KAMRUP ASSAM

3:SIDDIQUE ALI
S/O LATE MOYAN ALI
RESIDENT OF VILL PANIKHAITI LOTORIADIA
PO MAHTOLI
PS BOKO
DIST KAMRUP ASSAM

4:SHOR BHANU
W/O SIDDIQUE ALI
RESIDENT OF VILL PANIKHAITI LOTORIADIA
PO MAHTOLI
PS BOKO
DIST KAMRUP ASSAM

5:SMTI. PHILINDES D. SANGMA
VILLAGE AND PO SHALLANG
PS NONGSTOIN
DIST WEST KHASI HILLS
MEGHALAYA
793119

6:SRI GANESH RAY
C/O SMTI PHILINDES D. SANGMA
VILLAGE AND PO SHALLANG
PS NONGSTOIN
DIST WEST KHASI HILLS
MEGHALAYA
79311

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

Advocate for the Respondent : MR. A MANNAF (R1-R4), MR. A B ACONDA (R1-R4),MS F
BEGUM (R1-R4),MISS S R DEY,MS. J PAUL

::: PRESENT:::

THE HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Appellant : Mr. S.K. Goswami,
Advocate.

For the Respondents : Mr. A. Mannaf,
Advocate.

Date of Hearing : 30.07.2024.

Date of Judgment : 01.08.2024.

JUDGMENT AND ORDER (CAV)

Heard Mr. S.K. Goswami, learned counsel representing the appellant as well as Mr. A. Mannaf, learned counsel appearing for the respondents.

2. This is an appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment and award dated 26.03.2018, passed by the learned Member, Motor Accident Claims Tribunal No.2, Kamrup (M), Guwahati in MAC Case No.1006 of 2012.

3. On 14.04.2012 at about 8.20 A.M., Rahim Badsha was travelling in a Bus bearing Registration No.ML-06-0828. The bus was coming from Shallang in West Khasi Hills, Meghalaya towards Assam. At Rongberam, the driver of the bus lost control of the bus and Rahim Badsha was thrown out of the bus. He came under the rear tyres of the bus and died instantly. Late Rahim Badsha was 27 years old and working as a daily wage earner and as a part-time businessman. He used to earn ₹9,000/- per month. The deceased left behind his wife, son and parents.
4. A claim application was filed before the Tribunal seeking compensation.
5. The appellant Insurance Company had contested the claim application by filing written statements. Apart from other claims, the Insurance Company had pleaded that pursuant to the provision of law as laid down in Section 149(2)(a)(ii) of the Motor Vehicles Act, 1988, since in the claim petition and the particulars of the driving licence of the offending bus was not mentioned and therefore, it could not verify its validity.
6. In the additional written statement, the Insurance Company had pleaded that it came to know that the driver Ganesh Ray, of the offending vehicle, did not have valid driving license on the day of the accident.
7. The Tribunal did not frame any issue as to whether the driver of the vehicle had a valid driving licence at the time of accident.
8. However, on the aforesaid point, the Tribunal held that there is no record to show that in spite of having knowledge that the driver of the bus was driving the bus without a valid driving license, it's owner had allowed the driver to drive the vehicle.
9. Finally, the Tribunal directed the appellant/Insurance Company to pay a compensation of ₹10,22,068/- along with interest.
10. I have considered the submissions made by the learned counsel of both sides.
11. The provisions of law relating to payment of compensation to the victims of motor vehicle accidents are beneficial legislations. Therefore, the intention of the legislation is to be respected.
12. Accordingly, the Insurance Company is directed to pay the compensation to the claimants as directed by the Tribunal. Thereafter, the Insurance Company shall have the liberty to recover the money from the owner of the offending vehicle. If the Insurance Company proceeds to recover the money from the owner of the offending vehicle, then the owner shall have to prove that the driver Ganesh Ray who was driving the vehicle bearing Registration No. ML-06-0828 on 14.04.2012, had a valid driving

licence.

13. It is further directed that since the Tribunal had erroneously directed the Insurance Company to pay interest upon the money relating to future prospect, that part of the impugned judgment is modified. The Insurance Company need not pay interest on the money relating to future prospect.

14. With the aforesaid direction, the appeal stands disposed.

Send back the LCR.

JUDGE

Comparing Assistant