

GAHC010144512024



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

Case No. : WP(C)/3691/2024

RAHIMA BEGUM
W/O- LATE MAJIRUDDIN AHMED,
R/O- VILLAGE- GOG,
P.O- BARPALAHA,
P.S- BAIHATA CHARIALI,
DIST- KAMRUP, ASSAM, PIN-781121

VERSUS

THE STATE OF ASSAM AND 5 ORS
REP. BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR,
GUWAHATI- 781006.

2:THE COMMISSIONER AND SECRETARY
TO THE DEPTT. OF REVENUE (RELIEF AND REHABILITATION) AND
DISASTER MANAGEMENT
DISPUR
GUWAHATI-781006

3:THE COMMISSIONER AND SECRETARY
TO THE DEPTT. OF FINANCE DEPARTMENT
DISPUR
GUWAHATI-781006

4:THE DEPUTY COMMISSIONER

KAMRUP (R)
AMINGAON
ASSAM

5:THE CIRCLE OFFICER
NORTH GUWAHATI REVENUE CIRCLE
AMINGAON
KAMRUP

ASSAM

6:THE OFFICER IN CHARGE
BAIHATA CHARIALI POLICE STATION
DIST- KAMRUP
ASSA

Advocate for the petitioner(s) : Mr. G.R.A Mottaquee

Advocate for the respondent(s): Mr. A Bhattacharjee,
Mr. S. Baruah

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 31.07.2024

Heard Mr. G.R.A Mottaquee the learned counsel appearing on behalf of the petitioner and Mr. A Bhattacharjee, the learned counsel appearing on behalf of the Revenue Department as well as Mr. S. Baruah, the learned counsel appearing on behalf of Government of Assam.

2. This Court vide an order dated 26.07.2024 was of the opinion that the instant writ petition is covered by the judgment of the Coordinate Bench of the Court dated 21.06.2024 in the case of ***Monisha khatun vs State of Assam (Writ Petition No. 2700/2023)***. However, the learned counsel appearing on behalf of the petitioner submitted that there is Division Bench judgment which permits such compensation and accordingly has placed an order passed by the Division Bench in PIL Case No. 26/2013.

3. This Court has duly perused the said order passed in the said Public Interest Litigation and the said order relates to compensation in terms with Section 357 (A) of the Cr.P.C. It has also been mentioned by the Division Bench in the said judgment that all pending cases of individual victims be considered in terms with the objects and the provisions of the scheme made in terms with Section 357 (A) of the Cr.P.C.

4. This Court has taken note of the judgment passed by the Coordinate Bench wherein the reference was drawn to the judgments of the Supreme Court in the case of ***Reliance General Insurance Comp. Ltd. Vs. Shashi Sharma***

& ors., reported in **(2016) 9 SCC 627** as well as the **National Insurance Company Ltd. vs Birender ors.,** reported in **(2020) 11 SCC 356**. Referring to the said judgments, the learned Coordinate Bench of this Court categorically opined at paragraph Nos. 16 and 17 that the notification dated 15.11.2014 cannot be read as it shall be applicable in respect to all accidents except hit and run case where the offending vehicle remains unidentified in the final form after police investigation. The claims made in the instant writ petition refers to a notification dated 24.04.2007 which is pari-materia to the notification which was issued on 15.11.2014.

5. Under such circumstances, in the opinion of this Court, the observations so made by the Coordinate Bench in the case of **Monisha Khatun (Supra)** being binding on this Court finds no reason to entertain the instant writ petition.

6. Accordingly, the instant writ petition stands dismissed.

7. Be that as it may, the adjudication herein shall not deprive the petitioner of its entitlement, if otherwise entitled to under the Motor Vehicles Act, 1988.

JUDGE

Comparing Assistant