

GAHC010156762024



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

Case No. : I.A.(Civil)/2558/2024

BARNALI DAS AND 3 ORS.
W/O LATE SANJAY DAS,
VILL.- CHAIBARI, P.S.- PATACHARKUCHI, DIST.- BARPETA, ASSAM, PIN-
781329.

2: KRISHNANGI DAS
D/O LATE SANJAY DAS

VILL.- CHAIBARI
P.S.- PATACHARKUCHI
DIST.- BARPETA
ASSAM
PIN- 781329.
(BEING MINOR REP. BY HER LAGAL GUARDIAN MOTHER I.E.
RESPONDENT NO. 1).

3: NIBIR JYOTI DAS
S/O LATE SANJAY DAS

VILL.- CHAIBARI
P.S.- PATACHARKUCHI
DIST.- BARPETA
ASSAM
PIN- 781329.
(BEING MINOR REP. BY HIS LAGAL GUARDIAN MOTHER I.E.
RESPONDENT NO. 1).

4: GIRI BALA DAS
W/O SRI BHUPEN DAS

VILL.- CHAIBARI
P.S.- PATACHARKUCHI
DIST.- BARPETA
ASSAM

PIN- 781329.
(BEING MINOR REP. BY HER LAGAL GUARDIAN MOTHER I.E.
RESPONDENT NO. 1)

VERSUS

TATA AIG GENERAL INSURANCE CO. LTD. AND ANR
HAVING ITS REGISTERED OFFICE AT PENINSULA CORPORATE PARK,
NICOLAS PIRAMAL TOWER 9TH FLOOR, GANPATRO KADAM MARG,
MUMBAI, PIN- 400013, ZONAL OFFICE AT CONSTANTIA OFFICE COMPLEX,
2ND FLOOR, 11, DR U.N. BRAHMACHARI STREET, KOLKATA- 700017 AND
BRANCH OFFICE AT ABC, G.S. ROAD GUWAHATI- 781005.

2:HITESH TALUKDAR
C/O SRI DURGESWAR TALUKDAR

VILL.- DALAIGAON
P.O.- BAMAKHATA
DIST.- BARPETA
ASSAM
PIN- 781325

Advocate for the Petitioner : MR N RAY,

Advocate for the Respondent : MR. R GOSWAMI,

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 22.11.2024

Heard Mr. N. Ray, learned counsel for the applicants and Ms. M. Saikia, learned counsel for the opposite party No. 1.

2. This interlocutory application is preferred by the applicants for allowing them to withdraw 50% of the awarded amount deposited before the Registry of this Court, pursuant to the order dated 02.02.2024, in I.A.(Civil) No. 242/2024.

3. Perused the application and the documents placed on record and also perused the objection filed by the opposite party No. 1.

4. Ms. Saikia, learned counsel for the opposite party No. 1 submits that at the relevant point of time, though the driver was holding driving licence, but he was not authorized to drive a transport vehicle and there was no endorsement to that effect in his driving licence and therefore, she has opposed allowing the applicants to withdraw the awarded amount deposited before the Registry of this Court.

5. Having heard the submissions of learned Advocates of both the parties, and also considering the facts and circumstances on the record and also keeping in mind the legislative intent behind enacting the benevolent provision in the M.V. Act, this Court is inclined to allow this application.

6. Accordingly, the applicants are allowed to withdraw 50% of the awarded amount deposited before the Registry of this Court.

7. In terms of above, this I.A. stands allowed.

JUDGE

Comparing Assistant