

GAHC010164662024



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

Case No. : WP(C)/4192/2024

DHIREN SHAH GUPTA
SON OF SRI. TULSHI SHAH,
RESIDENT OF HOUSE NO. 6, 2ND FLOOR,
KHARGESHWAR TALUKDAR PATH,
NEAR GAYARAM SCHOOL, BIRUBARI,
POLICE STATION- PALTAN BAZAR,
DISTRICT- KAMRUP(M), GUWAHATI PIN 781016, ASSAM.

VERSUS

ORIENTAL INSURANCE COMPANY LIMITED AND 2 ORS
REGISTERED OFFICE- ORIENTAL HOUSE,
A-25/27, ASAF ALI ROAD, NEW DELHI- 110002.
REGIONAL OFFICE- GODREJ BUILDING,
G.S. ROAD, ULUBARI, GUWAHATI, PIN- 781007, ASSAM.
BRANCH OFFICE- RKB ROAD, CHRISTIAN PATTY, NAGAON, PIN- 782001,
ASSAM.
(INSURER OF THE OFFENDING VEHICLE BEARING REGISTRATION NO.
AS-02-Q-6810 VIDE POLICY NO. 321201/31/2020/6930 VALID FROM
12.09.2019, 11.00 HRS TO 11.09.2020, MIDNIGHT.)

2:THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF
INDIA (IRDAI)
3RD FLOOR
PARISRAMA BHAVAN

BASHEER BAGH
HYDERABAD
TELENGANA
PIN- 500004.

3:HRIDAY BISWAS

SON OF PARIMAL BISWS
RESIDENT OF VILLAGE- BHARIDHOWA
POST OFFICE- BHARIDHOWA
POLICE STATION- ULUANI
PIN- 782120
DISTRICT- NAGAON
ASSAM.
(OWNER-CUM-DRIVER OF THE OFFENDING VEHICLE BEARING
REGISTRATION NO. AS-02-Q-6810.

For the petitioner (s) : Mr. A. Lal, Advocate

For the respondent (s) : Mr. S. R. Baruah, Advocate

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH
O R D E R

21.08.2024

Heard Mr. A. Lal, the learned counsel appearing on behalf of the petitioner.

2. The instant writ petition has been filed by the petitioner seeking a direction upon the respondent No.2, i.e. the Insurance Regulatory and Development Authority of India to comply in terms with Section 3 of the Insurance Law (Amendment) Act, 2015 along with a further direction to the respondent No.2 to initiate proceedings against the respondent No.1, i.e. the Oriental Insurance Company Limited for non-compliance of the Award dated 02.04.2024 passed in MAC Case No.1413/2020. In addition to that, the petitioner has also sought for direction upon the Insurance Company to pay the awarded amount to the claimants in compliance to Section 168 (3) of the Motor Vehicles Act, 1988. The learned counsel appearing on behalf of the petitioner has drawn the attention of this Court to the Insurance Law (Amendment) Act, 2015, and more particularly, to Section 3 (4) (e) of the Insurance Law (Amendment) Act, 2015 whereby it is stipulated that if the

authority has reasons to believe that any claim upon the insurer arising in India under any policy of the insurance remains unpaid for three months after final judgment in regular Court, the authority may suspend or cancel the registration of an insurer.

3. This Court had put a specific query upon the learned counsel appearing on behalf of the petitioner as to whether the petitioner had at all approached the respondent No.2 to which the learned counsel for the petitioner submits with all fairness that the petitioner has not approached the respondent No.2.

4. Under such circumstances, this Court is not inclined to issue a writ in the nature of mandamus taking into account that it is a well settled principle of law that a writ of mandamus can only be issued when the justice has been demanded which has been refused or denied. In addition to that, this Court is of the opinion that the instant writ petition is personal to the petitioner and it is not a Public Interest Litigation, and as such, question of directing the Insurance Company to pay the awarded amount to the claimants in compliance with Section 168 (3) of the Motor Vehicles Act, 1988 would not be proper exercise of jurisdiction.

5. Accordingly, this Court finds no merit in the instant writ petition and as such the instant writ petition stands dismissed.

6. The dismissal of the writ petition however shall not preclude the petitioner to approach the appropriate authorities including the Motor Accident Claims Tribunal wherein the Award dated 02.04.2024 was passed.

JUDGE

Comparing Assistant