

GAHC010173682016



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

Case No. : CRP/347/2016

MD. THAKLU ALI @ TABLU
S/O. RASAB ALI, VILL. UMAARPUR PT. III, P.O. UMARPUR, P.S. BADARPUR,
DIST. KARIMGANJ, ASSAM. PRESENTLY RESIDING AT VILL. BERENGA PT.
II, P.O. BERENGA, P.S. SILCHAR, ASSAM.

VERSUS

MD. SALAK AHMED and ANR.
S/O. LT. TERA MIA, VILL. BAKARSHAL, P.O. JABINPUR, P.S. KARIMGANJ,
DIST. KARIMGANJ, ASSAM 788011. OWNER OF AS-11/D/5093

2:BHARTI AXA GENERAL INSURANCE COMPANY LTD.
REP. BY THE MANAGER
BHARTI AXA GENERAL INSURANCE COMPANY LTD.
510
AMAZE SHOPPING MALL
5TH FLOOR
A.T. ROAD
NEAR PAN BAZAR
FLY OVER
GUWAHTI-781001
DIST. KAMRUP
ASSAM INSURER OF AS-11/D-5093

Advocate for the petitioner(s):

Mr. S Dutta

Senior Advocate

Advocate for the respondent(s): Mr. AJ Saikia

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

13.05.2024

This is an application under Article 227 of the Constitution challenging the order dated 23.06.2016 passed by the learned Member, Motor Accident Claims Tribunal, Silchar in MAC Case No.699/2013 whereby the claim petition was returned by exercising the powers under Order VII Rule 10 of the Code of Civil Procedure, 1908 (for short, the Code).

2. Mr. S Dutta, the learned senior counsel appearing on behalf of the petitioner submitted that the learned Tribunal could have dismissed the said claim petition on the ground that the claimant was not interested in pursuing the claim petition as the claimant had not taken any steps. But taking into account Section 166 of the Motor Vehicle Act, 1988 as it stood then, the learned Tribunal could not have returned the claim petition by exercising the powers under Order VII Rule 10 of the Code, as the Tribunal had the jurisdiction, *inasmuch as*, the claimant was a resident of Silchar. Under such circumstance, the Tribunal in view of Section 166 of the Motor Vehicle Act, 1988 committed a jurisdictional error in returning the claim petition on the ground that the Tribunal did not have the jurisdiction, for which this Court is required to interfere with the order dated 23.06.2016.

3. This Court having perused the claim petition and on a perusal thereof, it transpires that the claimant is a resident of Silchar; the learned Tribunal had the jurisdiction to decide the claim petition. Accordingly, the impugned order is interfered with.

4. Mr. AJ Saikia, the learned counsel who appears on behalf of the respondent No.2 submits that Bharti AXA General Insurance Company Ltd., no longer exists as the same merged with the ICICI Lombard General Insurance Company Ltd., and the later company had also taken over all assets and liabilities of Bharti AXA General Insurance Company Ltd.

5. Taking into account the above, Mr. S Dutta, the learned senior counsel submitted that due changes would be made in the claim petition incorporating the Insurance Company would now be liable as per the claim made.

6. This Court taking into account that both the parties are represented before this Court, directs the parties to appear before the learned Member Motor Accident Claims Tribunal Silchar on 10.06.2024.

7. Before parting with the records, this Court makes it very clear that the petitioner herein has been totally negligent in pursuing the proceedings before the learned Tribunal. It is seen from the impugned order itself that for almost two years, the claimant did not take steps. It is also seen that the impugned

order is of the year 2016 and the same is now being interfered with by this Court in the year 2024.

8. Taking into account the above, this Court observes that the claimant shall not be entitled to claim of interest in terms with Section 171 of the Motor Vehicles Act, 1988 from the date of filing of the claim application till today.

9. The Tribunal shall be at liberty to consider the entitlement of interest, if any, post the order passed today.

10. It is also made clear that if the claimant fails to take steps, the Tribunal shall be at liberty to pass such order(s) as is conceived under the law.

11. With the above, the revision petition stands disposed of.

JUDGE

Comparing Assistant