

GAHC010178612024



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

Case No. : CRP/88/2024

KALPANA SINHA AND 4 ORS.
W/O- LATE KRISHKANTA SINHA, R/O- VILL.- BHAKATPUR, P.O.
BHAKATPUR, P.S. SILCHAR, DIST. CACHAR, ASSAM, PIN- 788001.

2: KRIPA SHREE SINHA
D/O- LATE KRISHKANTA SINHA
R/O- VILL.- BHAKATPUR
P.O. BHAKATPUR
P.S. SILCHAR
DIST. CACHAR
ASSAM
PIN- 788001.

3: SRIKANTA SINHA
S/O- LATE KRISHKANTA SINHA
R/O- VILL.- BHAKATPUR
P.O. BHAKATPUR
P.S. SILCHAR
DIST. CACHAR
ASSAM
PIN- 788001.

4: SURAJIT SINHA
S/O- LATE KRISHKANTA SINHA
R/O- VILL.- BHAKATPUR
P.O. BHAKATPUR
P.S. SILCHAR
DIST. CACHAR
ASSAM
PIN- 788001.

5: PROSONJIT SINHA
R/O- VILL.- BHAKATPUR
P.O. BHAKATPUR

P.S. SILCHAR
DIST. CACHAR
ASSAM
PIN- 788001

VERSUS

THE UNITED INDIA INSURANCE CO. LTD.
REPRESENTED BY DIVISIONAL MANAGER, SHYAMAPRASAD ROAD,
SHILLONGPATY, SILCHAR, CACHAR, ASSAM, PIN- 788004.

Advocate for the Petitioner : MR M AHMED, A. K. KANU

Advocate for the Respondent : ,

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER**

06.09.2024

Heard Mr. M. Ahmed, learned counsel for the petitioners.

2. This petition, under Section 115 of the C.P.C., is directed against the impugned order dated 21.08.2024, passed by the learned Member, M.A.C.T., Cachar at Silchar, in M.A.C. Case No. 51/2013.

3. It is to be noted here that vide impugned order dated 21.08.2024, the learned Member, M.A.C.T., Cachar at Silchar has directed the bank authority of State Bank of India, New Silchar Branch to keep on hold an amount of Rs. 13,29,752/- or any amount lying in the account of the petitioner No. 1, bearing A/C No. 10390593850.

4. Mr. Ahmed, learned counsel for the petitioners submits that the petitioner has filed one M.A.C. Case No. 51/2013, before the learned Member, M.A.C.T., Cachar at Silchar, seeking compensation on account of death of their son/brother in a road accident that took place on 02.12.2012. In the said case the learned Tribunal has

awarded compensation amounting Rs. 10,24,291/- with interest @ 9%, on the awarding amount, from the date of filing of the claim petition till its realization. Thereafter, the petitioner being aggrieved, filed an appeal before this court, being M.A.C. Appeal No. 439/2019 and this court, vide order dated 20.03.2024, was pleased to dispose of the appeal by setting aside the impugned judgment and award dated 09.02.2018, and remanded the matter back to the learned Tribunal to afford opportunity to the petitioner to lead evidence to establish the income of the deceased and to decide the matter afresh. Thereafter, the petitioner had filed a petition before the learned Tribunal and the learned Tribunal, vide order dated 07.05.2024, has released a sum of Rs. 13,29,752/- in favour of the petitioner No. 1, which was deposited with the learned Tribunal by the respondent Insurance Company. Thereafter, the petitioner has adduced their evidence and also examined the employer of the deceased as P.W.2. Thereafter, arguments were advanced by both the parties and while the case was fixed for judgment, the learned Tribunal, vide impugned order dated 21.08.2024, had directed the bank authority of State Bank of India, New Silchar Branch to keep on hold an amount of Rs. 13,29,752/- or any amount lying in the account of the petitioner No. 1, bearing A/C No. 10390593850, on the ground that the said amount was allowed to be withdrawn due to inadvertent mistake. Thereafter, the bank authority had kept on hold the amount lying in the account of the petitioner No. 1.

5. Mr. Ahmed further submits that the learned Tribunal had already heard argument of both the parties and fixed the case for judgment and thereafter, suddenly it had come to the notice of the learned Tribunal that amount was released inadvertently, as the earlier judgment and award was set aside by this court. Mr. Ahmed also submits that on account of putting on hold the awarded amount and also the other amount lying in the account of the petitioner, the petitioner is facing severe hardship and therefore, it is contended to allow this

petition.

6. Having heard the submissions of learned counsel for both the petitioners, I have carefully gone through the petition and the documents placed on record and also perused the impugned order dated 21.08.2024.

7. It appears that this court vide order dated 20.03.2024, in M.A.C. Appeal No. 439/2019, was pleased to dispose of the appeal by setting aside the impugned judgment and award dated 09.02.2018, and remanded the matter back to the learned Tribunal to afford opportunity to the petitioner to lead evidence to establish the income of the deceased and to decide the matter afresh. That being so, there is no point for releasing the amount already deposited by the respondent Insurance Company as the very judgment and award ceases to exist. But, inadvertently the learned Tribunal has released the amount and when it has come to the notice of the learned Tribunal, it has put on hold the amount.

8. Viewed from that angle, the impugned order suffers from no illegality or infirmity requiring any interference of this court. Thus, this court finds no merit in this petition. Accordingly, the same stands dismissed. However, the learned Tribunal is requested to dispose of the matter as early as practicable.

9. The petitioners shall obtain a certified copy of this order and shall place the same before the learned tribunal within a week from today.

Comparing Assistant

JUDGE