

GAHC010193082019



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

Case No. : Review.Pet./85/2023

UNITED INDIA INSURANCE COMPANY LIMITED
A PUBLIC SECTOR UNDERTAKING, HAVING ITS REGISTERED OFFICE AT
CHENNAI, REPRESENTED BY ITS REGIONAL OFFICE AT G.S. ROAD,
GUWAHATI, ASSAM-781005

VERSUS

SMTI. SONALI SAIKIA AND 4 ORS
W/O LATE SRI ARUN SAIKIA, R/O MILANPUR, KAMARCHUBURI, P.O. and
P.S. TEZPUR, DIST. SONITPUR, ASSAM.

2:SARBAN SINGH
S/O S. SINGH
R/O PA 63
BELGACHIA ROAD
KOLKATA
WEST BENGAL
C/O LOKNATH BODY BUILDERS
SODHAPUR ROAD
JUGBESIA N
24 PARGANAS
WEST BENGAL

3:BHARAT SARKAR
S/O SRI PRANAB KR. SARKAR
R/O RUBBER BAGAN
TEZPUR
P.S. TEZPUR
DIST. SONITPUR
ASSAM

Advocate for the Petitioner : MR. B J MUKHERJE, MS.L SHARMA,MR.S S SHARMA,MR A

SHARMA

Advocate for the Respondent : , MS.P BORTHAKUR(R-1),MR.P P BORTHAKUR(R-1),MR.D KALITA(R-1),MR. R BARUAH

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 29-08-2024

Heard Mr. H. Buragohain, learned counsel for the petitioner. Also heard Mr. R. Baruah, learned counsel for the opposite party/claimant/respondent No.1.

This is an application filed by the appellant company praying for review/recalling of the order dated 03.08.2018 passed by this Court in the connected appeal being MAC.App No.471/2018.

This Court vide order dated 03.08.2018 admitted the MAC.App. 471/2018 filed by the appellant subject to payment of 50% of the awarded amount to be deposited before the Registry of this Court within 4 (four) weeks from the date of the order and the respondent No.1/claimant was allowed to withdraw the amount subject to proper identification.

The grounds taken in the application is that the plea of fake policy as raised by the appellant has not been addressed by the learned Tribunal and the appeal being filed on the ground that as the policy was fake and the awarded amount cannot be paid by the Insurance Company, is pending adjudication, the direction for permitting withdrawal of the deposited amount by the claimant would amount to drawal of a presumption that a genuine policy cover for alleged offending vehicle exist. Further ground is that the copy of the policy produced is a fake policy, for which no premiums was realized and hence making payment in terms of the order and not resisting the order of withdrawal of such amount by the claimant would amount to violation of Section 64 V(B) of Insurance Act. Therefore, the order dated 03.08.2018 permitting withdrawal of the 50% of the awarded amount that would be deposited by the claimant amounts to an error, which is apparent on the case of the record.

On careful consideration of the order dated 03.08.2018, it is seen that this Court admitted the appeal subject to payment of 50% of the awarded amount to be deposited before the Registry of this Court and allowed the respondent No.1/claimant to withdraw the amount subject to proper identification. This Court is of the view that such an order admitting the appeal subject to payment of

50% of the awarded amount by the claimant would not be an error, which is apparent on the case of the record.

Considering the above, this Court finds no ground for review of the order dated 03.08.2018 as no error apparent on the case of the record is indicated in the said order.

Accordingly, the review petition stands dismissed and disposed of.

JUDGE

Comparing Assistant