

GAHC010196252024



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

Case No. : CRP(IO)/381/2024

MONOWARA KHANAM AND 3 ORS
W/O- ABDUL KADDUS KHAN,
RESIDENT OF VILL. KAURPARA,
P.O.- HOWLY, P.S.- GOBARDHANA,
DIST. BAKSA, ASSAM, PIN- 781316.
PRESENTLY RESIDING AT -
SIJUBARI-DARGAH ROAD,
P.O. AND P.S.- HATIGAON,
DIST.- KAMRUP(M), ASSAM,
PIN- 781038.

2: ABDUL KADDUS KHAN
S/O- LATE ALAM KHAN
PETITIONER NO. 2 REPRESENTED BY PETITIONER NO. 1.
RESIDENT OF VILL. KAURPARA
P.O.- HOWLY
P.S.- GOBARDHANA
DIST. BAKSA
ASSAM
PIN- 781316.
PRESENTLY RESIDING AT -
SIJUBARI-DARGAH ROAD
P.O. AND P.S.- HATIGAON
DIST.- KAMRUP(M)
ASSAM
PIN- 781038.

3: MD. EUSUF KHAN
S/O- ABDUL KADDUS KHAN
PETITIONER NO. 3 REPRESENTED BY PETITIONER NO. 1.
RESIDENT OF VILL. KAURPARA
P.O.- HOWLY
P.S.- GOBARDHANA

DIST. BAKSA
ASSAM
PIN- 781316.
PRESENTLY RESIDING AT -
SIJUBARI-DARGAH ROAD
P.O. AND P.S.- HATIGAON
DIST.- KAMRUP(M)
ASSAM
PIN- 781038.

4: KHALEDA PARBIN
D/O- ABDUL KADDUS KHAN
PETITIONER NO. 4 REPRESENTED BY PETITIONER NO. 1.
RESIDENT OF VILL. KAURPARA
P.O.- HOWLY
P.S.- GOBARDHANA
DIST. BAKSA
ASSAM
PIN- 781316.
PRESENTLY RESIDING AT -
SIJUBARI-DARGAH ROAD
P.O. AND P.S.- HATIGAON
DIST.- KAMRUP(M)
ASSAM
PIN- 781038

VERSUS

NATIONAL INSURANCE CO LTD AND 2 ORS
DIVISION OFFICE, K.B. ROAD JORHAT,
P.O.- JORHAT, DIST- JORHAT, ASSAM, PIN- 785001,
REPRESENTED BY ITS REGIONAL MANGER,
NATIONAL INSURANCE CO. LTD.,
G.S. ROAD, BHANGAGARH, GUWAHATI,
DIST.- KAMRUP(M), ASSAM,
PIN- 781005.
(INSURER OF OFFENDING VEHICLE NO. PB-06-B-7755 (TRUCK)).

2:SUBRATA DUTTA
S/O- LT. ROBI DUTTA
P.O.- PUB-BONGAL PUKHURI
JORHAT
P.S.- JORHAT
DIST.- JORHAT
ASSAM
PIN- 785001.

(REGD. OWNER OF THE OFFENDING VEHICLE NO. PB-06-B7755 (TRUCK)).

3:MD. INJAMUL HOQUE

S/O- LATE LALMAMUD HOQUE
VILL.- BANDALI RESERVE
P.S.- TARABARI
DIST.- BARPETA

ASSAM.

(DRIVER OF THE OFFENDING VEHICLE NO. PB-06-B7755 (TRUCK))

Advocate for the Petitioner : MR. S AHMED, MS N AKTAR, MR M RAHMAN, MS. M. KHATUN

Advocate for the Respondent : ,

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

27.09.2024

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

2. In this petition, under Article 227 of the Constitution of India, read with Section 115 of the C.P.C., the petitioners have prayed for setting aside and quashing the impugned order dated 06.06.2024, passed in M.A.C. Case No. 1537/2017, by the learned Member, M.A.C.T., No. 3, Kamrup (M) at Guwahati.

3. It is to be noted here that vide impugned order dated 06.06.2024, the learned Tribunal has allowed the Petition No. 3823/2024, filed by the National Insurance Company Limited, to summoning the DTO, Jorhat, Assam and DTO, Mon, Nagaland, under Order 16 Rule 14 of the C.P.C., to verify the permit of the offending vehicle and fixed the case for evidence of the defendant.

4. Mr. Ahmed, learned counsel for the petitioners submits that the petitioners are aggrieved by the order dated 06.06.2024, on the ground that the said order was passed without affording any opportunity of being heard to the petitioners. Mr. Ahmed further submits that on 06.06.2024, the case was fixed for

delivery of judgment, but without delivering the judgment, the learned Tribunal, on the basis of the Petition No. 3823/2024, filed by the respondents, has allowed the respondents to adduce defence evidence. Since the order has been passed without hearing the petitioners and affording them to file objection, Mr. Ahmed has contended that the impugned order dated 06.06.2024, may be set aside and quashed and the learned Tribunal may be directed to allow the petitioners to file objection to the Petition No. 3823/2024.

5. Having heard the submissions of learned counsel for the petitioners, I have carefully gone through the petition as well as the documents placed on record and also perused the impugned order dated 06.06.2024, which is extracted as under:-

“Today is the date fixed for judgment.

Learned counsel for the OP No. 1 has filed a petition no. 3823/24 praying that due to important information regarding DL concerned of the driver of the offending vehicle examination of the DTO, Mon, Nagaland is required.

Seen the petition.

Heard, the learned counsel.

In order to advance the cause of justice instead of delivering the judgment the OP is allowed to adduce defence evidence.

OP No. 1 is to take steps forthwith.

Fix: 29.08.2024 for DW.”

6. It appears that the impugned order dated 06.06.2024, was passed without affording any opportunity of being heard to the petitioners. It also appears that on 06.06.2024, the case was fixed for delivery of judgment, but without delivering the judgment, the learned Tribunal, on the basis of the Petition No. 3823/2024, filed by the respondents, has allowed the Insurance Complies to adduce defence evidence.

7. In that view of the matter, the impugned order 06.06.2024, being passed without affording an opportunity of being heard, fails to withstand the legal scrutiny. Therefore, the impugned order dated 06.06.2024, stands set aside and quashed. Accordingly, the matter is remanded back to the learned Tribunal to afford an opportunity of being heard to the petitioners and also to allow the petitioners to file objection, in respect of Petition No. 3823/2024, on the next date fixed, i.e., 05.10.2024.

8. In terms of above, this petition stands disposed of, at this motion stage itself.

JUDGE

Comparing Assistant