

GAHC010202012021



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

Case No. : CRP/76/2021

HDFC ERGO GENERAL INSURANCE CO. LTD
HAVING ITS REGISTERED OFFICE AND HEAD OFFICE AT RAMON HOUSE,
H.T. PAREKH MARG, 169, BACKBAY RECLAMATION, MUMBAI-400020 AND
ITS GUWAHATI BRANCH OFFICE AT ADITYAM BUILDING, 6TH FLOOR,
LACHIT NAGAR, GS ROAD, GUWAHATI, ASSAM-781007

VERSUS

NONI GOPAL SARKAR AND 3 ORS
S/O LATE SREEMANTA SARKAR, R/O VILL-MONGLAGAON, P.O.-
KAJALGAON, P.S.-DHALIGAON, DIST-CHIRNAG, ASSAM, PIN-783385

2:PRNOY SARKAR
S/O SRI NONI GOPAL SARKAR
R/O VILL-MONGLAGAON
P.O.-KAJALGAON
P.S.-DHALIGAON
DIST-CHIRNAG
ASSAM
PIN-783385

3:SATYA RABHA
S/O SRI HARI NATH RABHA
R/O VILL-OUGURI
P.O.-OUGURI
P.S.-AMGURI
DIST-CHIRANG
ASSAM
PIN-783393

4:HEMANTA RAVA
S/O SRI RAGHU NATH RAVA

R/O VILL- NO. 2 RAVAPARA
P.O.-RAVAPARA
P.S.-SERFANGURI
DIST- KOKRAJHAR
ASSAM
PIN-783346
PRESENT ADD-R/O DHANPUR
P.O. AND P.S.-BISHMURI
DIST- KOKRAJHAR
ASSAM
PIN-78337

For the Petitioner(s) : Mr. R. Goswami, Advocate

For the Respondent(s) : Ms. A. Borah, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 03.04.2024

1. The instant application under Article 227 of the Constitution is directed against the order dated 21.09.2021 whereby the learned Member, MACT Chirang had directed the Insurance Company to pay Rs.50,000/- under Section 140 of the Motor Vehicles Act, 1988 within 30 days from the receipt of copy of the said order and also passed certain further directions.
2. I have heard Mr. R. Goswami, the learned counsel appearing on behalf of the Petitioner as well as Ms. A. Borah, the learned counsel appearing on behalf of the Respondent Nos. 1 and 2.
3. From a perusal of the impugned order dated 21.09.2021, it reveals that the learned Member MACT, Chirang after recording the details of the claim petition directed the Insurance Company to pay an amount of 50,000/- under Section 140 of the Motor Vehicles Act, 1988 within 30 days from the receipt of the copy

of the order. This Court has also taken note of that the learned Tribunal had also issued notice to the Insurance Company and directed the Insurance Company to get the claim investigated within 60 days from the date of receipt of the notice and in the event, the Insurance Company has no defence under Section 149 of the Motor Vehicles Act, 1988, the Insurance Company was directed to deposit the admitted amount according to the computation along with a reply to the Claim Tribunal. It was also directed that the report of the investigation shall be submitted on or before 07.12.2021 and the interim compensation shall be paid on or before 03.11.2021. It was further mentioned that in the event, the interim compensation is not paid, interest @ 12% per annum shall be paid to the claimants.

4. This Court upon perusing the said order and also taking note of the Motor Vehicles Act, 1988 and the Rules framed therein under, is of the opinion that the said order is in consonance with the said Act as well as the Rules and as such, this Court is of the opinion that the same does not require any interference.

5. Be that as it may, in view of the filing of the instant case and the stay so granted by this Court on 20.12.2021, the directions which was passed by the learned Tribunal on 21.09.2021 could not be complied with. Under such circumstances, this Court therefore enlarges the time for submission of the report as well as also for the payment of the interim compensation as directed by the learned Trial Court in its impugned order.

6. This Court further observes that the order dated 20.12.2021 passed by this Court stands vacated and the Petitioner as well as the Respondent Nos. 1 and 2 are directed to appear before the learned Tribunal on 10.05.2024 and on which date, the report of the investigation as well as the reply to be submitted by the Insurance Company be filed before the learned Tribunal as well as the interim

compensation so directed be deposited before the learned Tribunal. The Respondent Nos. 1 and 2 herein who are the claimants would be entitled to file an application before the Tribunal for the release of the said amount.

7. For the sake of clarity, this Court makes it clear that the interest which was directed vide the order dated 21.09.2021 would not require to be paid taking into account that this Court in the meantime has stayed the proceedings before the learned Tribunal for this period.

8. With above observations and directions, the instant petition stands disposed of.

JUDGE

Comparing Assistant