

GAHC010206012018



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

Case No. : MACApp./28/2019

ORIENTAL INSURANCE COMPANY LTD
HAVING ITS REGISTERED OFFICE AT ORIENTAL HOUSE NO, A-25/27 ASAF
ALI ROAD, NEW DELHI-110002 AND REGIONAL OFFICE AT GUWAHATI 7,
REPRESENTED BY THE REGIONAL MANAGER

VERSUS

SMTI BHANITA MALI AND 3 ORS
D/O BHARAT CH. MALI,
RESIDENT OF RONGAMATI, PO MIRZA, PS PALASHBARI, DIST KAMRUP,
ASSAM,781125

2:SRI BHARAT CH. MALI
RESIDENT OF RONGAMATI
PO MIRZA
PS PALASHBARI
DIST KAMRUP
ASSAM
781125

3:SRI DEBAJIT BARMAN
S/O NAGENDRA NATH BARMAN
R/O VILLAGE KHATA RUPAI BATHAN
PO CHAMATA
PS AND DIST NALBARI
ASSAM
783101
OWNER OF VEHICLE BEARING REGISTRATION NO. AS-14/F-1395

4:SRI RAHUL BARMAN
S/O RANINDHAR BARMAN

R/O VILLAGE RUPAIBATHAN
PO AND PS BELSOR
DIST NALBARI
ASSAM
781003
DRIVER OF VEHICLE BEARING REGD. NO. AS-14/F-139

Advocate for the Petitioner : MR SISHIR DUTTA, MR. S DUTTA,MR. C SHARMA,MR. R A HAZARIKA

Advocate for the Respondent : MR. N BORUAH, MR. P DUTTA, FOR CAVEATOR

::: PRESENT:::

THE HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Appellant	:	Mr. S. Dutta, Advocate.
For the Respondents	:	Mr. N. Baruah, Advocate.
Date of Hearing	:	30.07.2024.
Date of Judgment	:	01.08.2024.

JUDGMENT AND ORDER (CAV)

Heard Mr. S. Dutta, learned counsel representing the appellant as well as Mr. N. Baruah, learned counsel appearing for the respondents.

2. This is an appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment and order dated 21.06.2018, passed by the learned Member, Motor Accident Claims Tribunal No.2, Kamrup (M), Guwahati in MAC Case No.518 of 2017.
3. On 18.12.2016 at about 9 A.M., the respondent/claimant was riding the back seat of a motorcycle bearing Registration No.AS-14-F-1395. Because of rash and negligent driving on the part of the driver of the motorcycle, it met with an accident. As a result, the claimant sustained injuries.
3. She filed an application before the Tribunal seeking compensation.
4. In the Tribunal, the appellant Insurance Company had contested the case by stating that the driver of the motorcycle did not have valid driving license at the time of the accident.

5. The Tribunal did not frame any issue on that point. Even then, the Tribunal held that the Insurance Company failed to prove the aforesaid fact.
6. Finally, the Tribunal directed the Insurance Company to pay compensation of ₹8,41,540/- to the claimant.
7. Aggrieved by the aforesaid judgment, the present appeal has been filed.
8. I have considered the submissions made by the learned counsel of both sides.
9. The driving licence of the driver of the motorcycle was reportedly issued from the Office of the District Transport Officer, Phek in the State of Nagaland. The Investigator of the Insurance Company had visited the said office and came to know that no such licence was issued to the driver of the offending motorcycle.
10. The Tribunal held that the Insurance Company did not bring any witness from the Office of the District Transport Officer, Phek in the State of Nagaland to prove the fact that the Driving Licence No.26451/PK/PVT/2010 was not issued by that office. Therefore, the Tribunal did not accept the plea of the Insurance Company.
11. The provisions of law for payment of compensation to motor accident victims are beneficial legislations. Therefore, this Court is of the opinion that the intention of the legislature which created these provisions in the law is to be respected.
12. The Insurance Company is directed to pay the money to the claimant. The Insurance Company is at liberty to go for recovery of the money from the owner of the offending motorcycle. In that proceeding, the owner of the offending motorcycle shall have prove that he had a valid driving licence on the day of occurrence.
13. The appeal is disposed of with the aforesaid direction.

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JUDGE

Comparing Assistant