

GAHC010208602024



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

Case No. : CRP/102/2024

JITUMONI SALOI @ HALOI AND ANR
S/O- LATE KHANIN SALOI @ KHANINDRA @ KHANINDRA CH. HALOI,
VILL. BAKAITARI, KURUBARI,
P.O.- MATIA, DIST.- GOALPARA.

2: KRISHNA SALOI @ HALOI
W/O- LATE KHANIN SALOI @ KHANINDRA @ KHANINDRA CH. HALOI

VILL. BAKAITARI
KURUBARI

P.O.- MATIA
DIST.- GOALPARA

VERSUS

UNITED INDIA INSURANCE COMPANY LIMITED AND 2 ORS
REGIONAL OFFICE, GUWAHATI, G.S ROAD,
CHRISTIAN BASTI, P.O.- GUWAHATI- 781005,
DIST. KAMRUP(M), (ASSAM).

2:KUSHAL SHARMA
S/O- BHAJANLAL SHARMA

VILL. P.R. HILL
P.O.- KOHIMA- 797001

DIST.- KOHIMA (NAGALAND).

3:HEMANTA BORUAH
S/O ATUL BORUAH

VILL- HOLLOGI MARKET BALIJAN
P.S.- BALIJAN PAPUM PARE- 791123

DIST.- PAPUM PARE (A.P.)

Advocate for the Petitioner : MR. A R AGARWALA, MR ADITYA AGARWALA

Advocate for the Respondent : ,

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN
ORDER**

21.10.2024

Heard Mr. A.R. Agarwala, learned counsel for the petitioners.

2. Correctness or otherwise of the order, dated 02.07.2024, passed by the learned Member, Motor Accident Claims Tribunal, Amingaon, Kamrup, in MAC Case No.34/2023, is challenged in this petition under Article 227 of the Constitution of India, read with Section 115 of the Code of Civil Procedure.

3. It is to be noted here that vide impugned order dated 02.07.2024, the learned Member, Motor Accident Claims Tribunal, Amingaon, Kamrup, has dismissed the claim petition filed by the petitioners on the ground that the claim is time barred as the same was filed beyond six months and that Limitation Act is not applicable in case of M.V. Act, 2019, as the M.V. Act by itself has set a period of limitation and it cannot be overridden by the Limitation Act.

4. Mr. Agarwala, learned counsel for the petitioners submits that the petitioners have instituted the claim petition before the learned Member, Motor Accident Claims Tribunal, Amingaon, Kamrup, claiming compensation on account of death of Khanin Saloi @ Khanindra @ Khanindra Ch. Haloi in a motor accident, that took place on 03.09.2022, at Changsari, under Changsari Police Station. Mr. Agarwala further submits that while the accident took place on 03.09.2022, the claim petition was filed before the learned

Member, Motor Accident Claims Tribunal (MACT) on 10.04.2023, and in filing the said claim petition there was delay of 39 days and the petitioners along with the claim petition have filed another petition for condonation of delay of 39 days in filing the claim petition. But, the learned Member, vide order dated 02.07.2024, dismissed the same on the ground that Section 166(3) of the M.V. Act, 2019 specifically provides that no application for compensation shall be entertained unless it is made within six months of the occurrence of the accident, as the M.V. Act by itself has set a period of limitation and it cannot be overridden by the Limitation Act.

4.1 Mr. Agarwala, learned counsel for the petitioners submits that on account of financial hardship, the petitioners could not approach the learned Member, MACT, Amingaon, Kamrup, within the stipulated period of six months and therefore, Mr. Agarwala has contended to set aside the impugned order and to remand the matter back to the learned Tribunal with a direction to proceed with the same in accordance with law.

5. Having heard the submission of Mr. Agarwala, learned counsel for the petitioners, I have carefully gone through the petition and the documents placed on record and also perused the impugned order dated 02.07.2024.

6. It is also to be noted here that the High Court of Madras, in the case of **Malaravan vs. Praveen Travels Private Limited and Others**, reported in **2023 SCC OnLine Mad 5467**, while dealing with similar issue, had discussed the Rule 159 of the Central Motor Vehicle Rules and held that the said Rule 159 mandates that on the occurrence of the accident the police should file an FIR and send a copy of the same within 48 hours to the jurisdictional MACT. Thereafter, taking note of the Hon'ble Supreme Court in the case of **Gohar Mohammed vs. Uttar Pradesh State Road Transport Corporation and Others**, reported in **(2023) 4 SCC 381** and the Rules it has been held as under:-

"25. the timeline which has been set forth would clearly show that the claim petition need not be commenced only by way of presentation of the petition under Section 166 of the MV Act. This is clear from Section 166(4) of the MV Act which states that a

report filed by the police to the concerned authorities including the stakeholders, Insurance Companies and the jurisdictional Motor Accidents Claims Tribunal should be treated as the Claim Petition.

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29. the issue of six months limitation will arise only in case where no FIR has been registered by the police and no report has been sent/uploaded.

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32. The upshot of the discussion is that on registration of an FIR, a claimant is entitled to present the petition without the fear of it being thrown out, on the ground of limitation. This would be the correct reading of the present legal dispensation in all cases where FIR is registered within six months, of the date of any motor accident which takes place after 01.04.2022."

7. On such count, the High Court of Madras has allowed the Civil Revision Petition No. 2558 of 2023 [Malaravan (Supra)] and directed that the petition filed in MACT OP (SR) No.3280/2023 has to only be treated as a reminder to the court to call for the FIR and other reports and to treat the same as a claim petition.

8. The reasons so assigned by the High Court of Madras appear to be sound, based on the relevant Rules and decision of Hon'ble Supreme Court and the same can be gainfully applied in the present case also.

9. It appears that the accident took place on 03.09.2022, at Changsari under Changsari P.S., and in connection with the same one FIR was also lodged, upon which the Officer-in-Charge, Changsari P.S. has registered a case, being Changsari P.S. Case No.366/2022 under Section 279/304(A) IPC.

10. It is to be noted here that in view of the decision of Hon'ble Supreme Court in the case of Gohar Mohammed (supra) and also the Rule 159 of the Central Motor Vehicle

Rules, the Investigating Officer is bound to prepare an Accident Information Report and furnish the same to the stakeholders, Insurance Companies and the jurisdictional Motor Accidents Claims Tribunal and the same should be treated as the claim petition. And if the same is treated as claim petition, the question of limitation does not arise here in this case.

11. Under the aforementioned facts and circumstances, this court is inclined to allow this petition. Therefore, it is provided that the learned Member, MACT, Kamrup at Amingaon shall made an effort to find out whether the Investigating Officer of Changsari P.S. has forwarded an Accident Information Report to it or not and if not, then it shall call for the same along with the FIR of the said case and treat the same as claim petition and thereafter, shall proceed to hear and dispose of the matter in accordance with law.

12. In terms of above, this civil revision petition stands disposed of at the motion stage itself.

Sd/- Robin Phukan
JUDGE

Comparing Assistant