

GAHC010214362023



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

Case No. : I.A.(Civil)/2906/2023

PRIYA DEV AND ANR.
W/O SRI UTTAM DEV, PERMENENT RESIDENT OF KALYAN KENDRA, PO
AND PS SILAPATHAR, DIST DHEMAJI ASSAM 787059 .

2: SRI UTTAM DEV
S/O SRI SANTOSH DEV
PERMENENT RESIDENT OF KALYAN KENDRA
PO AND PS SILAPATHAR
DIST DHEMAJI ASSAM 78705

VERSUS

THE NEW INDIA ASSURANCE CO . LTD . AND 2 ORS.
HAVING ITS REGISTERED AND HEAD OFFICE AT NEW INDIA ASSURANCE
BUILDING, 87 MAHATMA GANDHI ROAD, FORT , MUMBAI 400001 AND
REGIONAL OFFICE AT GUWAHATI.

2:SRI RAJKISHURE CHAURASIA
S/O RAMLAGON CHAURASIA OF PASIGHAT
DIST EAST SIANG
ARUNACHAL PRADESH
791102

3:MD JAKIR ALI
S/O MOFISH ALI

NO. 2
MURKONG SELEK

PO AND PS JONAI
DIST DHEMAJI
ASSAM 78706

Advocate for the Petitioner : MR. R BORUAH

Advocate for the Respondent : MS. M CHOUDHURY

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 05-03-2024

Heard Mr. R. Boruah, learned counsel for the applicant/claimant. I have also heard Ms. M. Choudhury, learned counsel for the opposite party/appellant.

By filing this application under section 151 of CPC, the applicant/claimant seeks for a direction to release the amount of Rs.6,36,755/- deposited by the opposite party/appellant in compliance of the order dated 24.05.2023 passed in I.A.(Civil)/1313/2023 before the Registry of this Court.

By an order dated 24.05.2023 passed in I.A.(Civil)/1313/2023, this Court while staying the operation of the impugned judgment and order dated 01.06.2022 passed by the learned Member, MACT, Kamrup(M) in MAC case no. 52/2015 had directed the applicant/opposite party to deposit 50% of the awarded amount along with the interest accrued thereon before the Registry of this Court. In compliance of the said order, the opposite party/ appellant had deposited a sum of Rs. 6,36,755/- before the Registry.

By this application, the applicant/claimant seeks for a direction for release of the said deposited amounts.

The opposite party/appellant filed objection on the ground that they are not liable to pay any compensation to the applicant/claimant as the Bolero vehicle which was insured in their company was not the offending vehicle and as per the FIR and the subsequent Charge-sheet filed before the Court are

against the other vehicle, i.e., Tata Magic involved in the said accident which is the offending vehicle.

Considering that the deceased died in the said incident involved with two vehicles and that the family of the deceased has not yet received any compensation from either of the party; and having regards to the objection raised in the application, the applicant/claimant is allowed to withdraw the half of the 50% of the awarded amount deposited by the opposite party/appellant.

The Registry is directed to release 50% of the amount deposited by the OP/appellant (i.e., 50 % of Rs. 6,36,755/-) to the applicant/claimant on proper verification and identified by their learned counsels and on furnishing a bond of like amount.

With the above, this IA stands disposed of.

JUDGE

Comparing Assistant