

GAHC010257442018



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

Case No. : MACApp./1004/2018

SMTI GEETA MANDAL
W/O SHRI RAJMOHAN MANDAL, BHASKAR NAGAR, NRIPEN BORA PATH,
BLOCK A HOUSE NO. 17, P.S. FATASIL AMBARI, DIST. KAMRUP (ASSAM),
PIN 781025

VERSUS

THE REGIONAL MANAGER UNITED INDIA INSURANCE CO. LTD AND 2
ORS
CHRISTIANBASTI, GUWAHATI (INSURER OF THE TRUCK VIDE POLICY
NO. 1304003114P111066868 VALID UP TO 12.03.2016) PIN 781005

2:ARUN KUMAR CHOUDHURY
S/O SRI RAM SWARTH CHOUDHURY
RAI BAHADUR LANE
JORHAT
DIST. JORHAT (ASSAM)
PIN 785001 (OWNER OF BR 30/B-3439 TRUCK)

3:ACHALAL RAI
S/O SIPAHI RAI
FANCY ALI
P.O. JORHAT
DIST. JORHAT (ASSAM)
PIN 785001 (DRIVER OF THE TRUCK VIDE D/L NO. NL 0220010016820
VALID UPTO 3.1.201

Advocate for the Petitioner : MS D D ROY

Advocate for the Respondent : MR. A J SAIKIA (R1)

::: PRESENT:::

THE HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Appellant : Ms. D.D. Roy,
Advocate.

For the Respondents : Mr. A.J. Saikia,
Advocate.

Date of Hearing : 11.06.2024.

Date of Judgment : 25.07.2024.

JUDGMENT AND ORDER (CAV)

Heard Ms. D.D. Roy, learned counsel representing the appellant as well as Mr. A.J. Saikia, learned counsel appearing for the respondent Insurance Company.

2. This is an appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment dated 18.08.2018 passed by the learned Member, Motor Accident Claims Tribunal No.2, Kamrup(M) in MAC Case No.80/2016.
3. On 27.12.2015 at about 10.20 P.M., Rajesh Mandal was riding a motorcycle bearing Registration No.AS-01-AN-4529. At Jyotikuchi at Lokhra Road, a truck bearing registration No.BR-30-B-3439, which was driven in a rash and negligent manner, knocked the motorcycle of Rajesh Mandal. He sustained serious injuries and he was taken to GMCH where he was declared dead.
4. Late Rajesh Mondal was 27 years old and was an employee of NF Railway, who earned monthly salary of ₹49,545/-.
5. The insurance company of the Motorcycle was not made a party in the claim petition.
6. The Tribunal agreed that the claimant was entitled to receive the total compensation of ₹65,16,948/-. The Tribunal held that it was a head-on-collision between two vehicles and the motorcycle of the deceased had equally contributed to the accident. Therefore, the Tribunal held that the Insurance Company of the truck was liable to pay half of the total compensation of ₹65,16,948/-. The Tribunal directed that the respondent Insurance Company to pay an amount of ₹32,58,474/-.
7. The appeal has been filed on the ground that the truck was driven in a rash and negligent manner, which caused the accident. According to the appellant, the motorcycle never contributed to the accident.

8. I have considered the submissions made by the learned counsel of both sides.
9. Before the Tribunal, the claimant examined herself only. She has stated in her cross-examination that she did not bring any eye witness of the accident to prove her case. In her examination-in-chief, she has stated that the said truck had knocked the Motorcycle of the deceased on the front side.
10. The aforesaid facts, *prima facie*, established that there was a head-on-collision between the motorcycle and the truck. This Court is of the opinion that the learned Tribunal has correctly appreciated the evidence and arrived at a correct finding.
11. The appeal is found to be devoid of merit and stands dismissed accordingly.

Send back the LCR.

JUDGE

Comparing Assistant