GAHC010089462026

2026:GAU-AS:9963

IN THE GAUHATI HIGH COURT
HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

MACApp./241/2026

1. Kanchan Brahma,
   W/o Late Basparam Brahma.

2. Nizora Brahma,
   D/o Late Basparam Brahma.

3. Mousumi Brahma,
   D/o Late Basparam Brahma.

4. Dhanshree Brahma,
   W/o Sailendra Brahma,
   All are temporary residents of Muribazar, Barpeta Road Ward No. 6 Near Tourist Lodge, P.O. and P.S. Barpeta Road, Pin-781315.
   All are permanent resident of Village-Bondha Sidhanigarh Gaon,
   P.S. Patacharkuchi,
   Dist.Bajali, Assam, Pin-78132.

.....Appellants

-Versus-

1. Chinmay Narzary,
S/o Rupen Narzary,
R/o Village-Garh, Bondha Sidhani,
P.O. And P.S. Patacharkuchi,
District-Bajali, Assam,
Pin-781326,
Registered Owner-cum-Driver of Vehicle Bearing Registration Motor Cycle No.-AS-14-L-7828, DL No. AS2820190002053 Valid Till 06/06/20.

2. The Branch Manager,
Reliance General Insurance Company Ltd.,
Anil Plaza 5th Floor, GS Road,
ABC,
Guwahati-781001,
Assam Insurer of Vehicle No. AS-14L-7828
Alto Vide Policy No. 991792023740010350
Valid Up To 12/08/202.

.....Respondents

For Appellant(s) Mr. S. K. Poddar, Advocate.

For Respondent(s) Mr. N.K. Kalita, Advocate.
Mr. A.J. Saikia, Advocate.

Date of Hearing : **20.07.2026**
Date of Judgment : **20.07.2026**

BEFORE

HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

JUDGMENT AND ORDER

[1] Heard Mr. S. K. Poddar, the learned counsel for the appellants. Also heard Mr. A.J. Saikia, the learned counsel for the respondent No. 2 as well as Mr. N.K. Kalita, the learned counsel for the respondent No. 1.

[2] This appeal under Section 173 of Motor Vehicles Act, 1988 has been preferred by the appellants, impugning the judgment and order dated 20.02.2026, passed by the learned Member, Motor Accident Claims Tribunal, Barpeta, in MAC Case No. 377/2021, whereby the claim petition filed by the present appellants under Section 166 of the Motor Vehicles Act, 1988 was dismissed by the Motor Accident Claims Tribunal, Barpeta, on the ground of lack of territorial jurisdiction.

[3] This appeal under Section 173 of Motor Vehicles Act, 1988 has been preferred by the appellants, impugning the judgment and order dated 20.02.2026, passed by the learned Member, Motor Accident Claims Tribunal, Barpeta, in MAC Case No. 377/2021, whereby the claim petition filed by the present appellants under Section 166 of the Motor Vehicles Act, 1988 was dismissed by the Motor Accident Claims Tribunal, Barpeta, on the ground of lack of territorial jurisdiction.

[4] The facts relevant for consideration of the instant appeal, in brief, are that the husband of the present appellant No. 1, namely, Basparam Brahma, met with an accident when he was proceeding towards Baghmara Bazar by riding on his motor cycle for purchasing medicine on 17.05.2021 at about

3:00 PM. The accident occurred as the motor cycle which he was riding was hit by a Maruti Alto vehicle, bearing Registration No. AS-14-L-7828, being driven in a rash and negligent manner. As a result of the accident, said Basparam Brahma sustained injuries on his person and died on the spot.

[5] After the death of Basparam Brahma, present appellants, approached the Motor Accident Claims Tribunal, Barpeta by filing an application under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of late Basparam Brahma on a motor vehicular accident. The said claim case was registered as MAC Case No. 377/2021. The owner-cum-driver of the offending vehicle as well as the insurance company contested the claim of the present appellants before the Motor Accident Claims Tribunal, Barpeta by filing separate written statements. Wherein, they denied their liability to compensate the present appellants/claimants.

[6] Upon pleadings of the parties, the Motor Accident Claims Tribunal framed following issues:-

> *"1. Whether the accident took place due to rash and negligent driving of the vehicle No.AS-14-L-7828 (Maruti Alto) and death was caused to the husband of the claimant No.1 due to the accident?*
>
> *2. Whether the claimants are entitled to get any relief and if so, what shall be the just and proper compensation and by whom payable?"*

[7] During the course of the enquiry, the claimants' side examined the claimant No. 1 as CW-1 and three other witnesses as CW-2, 3 and 4 respectively and also exhibited certain documents, which were marked as Exhibit-1 to Exhibit-16. The owner of the offending vehicle as well as the insurance company adduced no evidence to counter the claim of the claimants.

[8] Ultimately, by the judgment and order which has been impugned in this appeal, the Motor Accident Claims Tribunal dismissed the claim of the present appellants mainly on the ground of lack of territorial jurisdiction on the part of the Motor Accident Claims Tribunal, Barpeta to enquire the claim case filed by the present appellants.

[9] Mr. S. K. Poddar, the learned counsel for the appellants submits that though in their respective written statements neither the insurance company nor the owner of the offending vehicle took a specific plea as regards lack of territorial jurisdiction of the Motor Accident Claims Tribunal, Barpeta and no issue was framed to that effect by the Motor Accident Claims Tribunal, Barpeta, however, while deciding issue No. 1, the Tribunal, it dismissed the claim petition filed by the present appellants on the ground of lack of territorial jurisdiction.

[10] He submits that the question of lack of territorial jurisdiction ought to have been raised at the earliest possible time. He submits that even if none of the opposite parties raised the

plea of lack of territorial jurisdiction, however, if at a belated stage, the Motor Accident Claims Tribunal, Barpeta deemed it proper to consider the question of territorial jurisdiction, it ought to have framed any issue to that effect so that opportunity of being heard on the said question could have been given to the present appellants. He further submits that even if after completion of enquiry before the Motor Accident Claims Tribunal, Barpeta, it came to the conclusion that the said Tribunal does not have territorial jurisdiction, it ought to have return the claim petition to the present appellants under Order 7 Rule 10A of the Code of Civil Procedure, 1908 so that appellants could have presented the same before the appropriate Tribunal having territorial jurisdiction to enquire into the matter. He submits that by taking a hyper technical view of the matter, and by dismissing the claim petition, it has caused great prejudice to the appellants/claimants. More so, in view of the period of limitation introduced by the Motor Vehicles Act after the amendment of the said Act in the year 2019.

[11] He submits that the Apex Court in the case of "***Malati Sardar Vs. National Insurance Company Ltd.***" reported in "***(2016) 3 SCC 43",*** while dealing with the question of territorial jurisdiction of Motor Accident Claims Tribunal, has observed as follows :-

> ***"16.*** *The provision in question, in the present case, is a benevolent provision for the victims of*

> *accidents of negligent driving. The provision for territorial jurisdiction has to be interpreted consistent with the object of facilitating remedies for the victims of accidents. Hypertechnical approach in such matters can hardly be appreciated. There is no bar to a claim petition being filed at a place where the insurance company, which is the main contesting party in such cases, has its business. In such cases, there is no prejudice to any party. There is no failure of justice. Moreover, in view of categorical decision of this Court in Mantoo Sarkar [Mantoo Sarkar v. Oriental Insurance Co. Ltd., (2009) 2 SCC 244: (2009) 1 SCC (Civ) 482: (2009) 1 SCC (Cri) 738] , contrary view taken by the High Court cannot be sustained. The High Court failed to notice the provision of Section 21 CPC."*

[12] He submits that in view of the above observations, the matter may be remanded back to the Motor Accident Claims Tribunal, Barpeta with a direction to decide the claim case filed by the present appellants on merit.

[13] In alternative, he has further submitted that this court may also after setting aside the impugned judgment transfer the matter to the Motor Accident Claims Tribunal, Bajali which has the territorial jurisdiction to take up the claim case filed by the present appellants.

[14] On the other hand, Mr. A.J. Saikia, the learned counsel for the respondent No. 2/insurance company has submitted that the insurance company does not have any office or business in the district of Barpeta. As such, the Motor Accident Claims Tribunal, Barpeta does not have any territorial jurisdiction to adjudicate the claim petition filed by the present appellants under Section 166 of the Motor Vehicles Act, 1988. He submits that the impugned judgment does not suffer from any infirmity.

[15] On the other hand, Mr. N.K. Kalita, the learned counsel for the respondent No. 1 submits that the respondent No. 1 does not have any objection if the claim case filed by the present appellants is pursued in a Motor Accident Claims Tribunal, which has the territorial jurisdiction to conduct the enquiry in the instant case.

[16] I have considered the submissions made by the learned counsel for both sides and have gone through the materials available on record.

[17] Section 166(2) of the Motor Vehicles Act, 1988 provides for as follows:-

> *"(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose*

> *jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed: Provided that where no claim for compensation under Section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant."*

[18] A bare perusal of aforesaid provisions indicate that the claimant has the option of filing his or her application under Section (1) of the Motor Vehicles Act, 1988 either before the claims Tribunal having jurisdiction over the area in which the accident had occurred or the claims Tribunal within the local limits of whose jurisdiction the claimants resides or carries on business or within local limits of whose jurisdiction the defendant resides.

[19] In the instant case, the accident occurred in Bajali district under Patacharkuchi police station. The claimants also reside within the territorial jurisdiction of Bajali district as well as the owner and driver of the offending vehicle is also a resident of Bajali district. Whereas, the insurance company has its office in Guwhati, Kamrup(M) district and there is nothing on record to show that the insurance company has any office in Barpeta district. Thus, apparently, there appears to be no infirmity in the impugned judgment in holding that the Motor Accident

Claims Tribunal, Barpeta does not have jurisdiction to entertain the claim petition in the instant case.

[20] However, it is also a settled proposition of law that objection as regards the question of jurisdiction has to be raised at the earliest possible opportunity. In the instant case, no issue has been framed as regards the question of territorial jurisdiction of the Motor Accident Claims Tribunal, Barpeta. The enquiry has been completed by the said Tribunal and the matter was fully heard and it is only at the time of delivery of judgment, the Motor Accident Claims Tribunal, Barpeta held in the impugned judgment that it lacks territorial jurisdiction. That too, was done by dismissing the claim of the appellants.

[21] At this belated stage, if the claim petition of appellants is dismissed and they are now asked to file a fresh application in the appropriate Motor Accident Claims Tribunal having territorial, it would cause immense hardship to the claimants, more particularly, due to the statutory embargo as regards period of limitation contained in Section 166 (3) of the Motor Vehicles Act, 1988.

[22] This court is of the considered opinion that even if the Motor Accident Claims Tribunal, Barpeta was of the view that it lacks territorial jurisdiction to entertain the application under Section 166 of the Motor Vehicles Act, 1988 filed by the present appellants, it ought to have return the application to

the appellants, so that same could have been filed again before the Tribunal which has the territorial jurisdiction over the matter in this case, i.e., Motor Accident Claims Tribunal, Bajali. As such, the impugned judgment and order, in the considered opinion of this court is liable to be set aside and this court, accordingly, does so.

[23] On perusal of the impugned judgment and order, it appears that the enquiry initiated on the basis of application under Section 166 of the Motor Vehicles Act, 1988, filed by the present appellants have reached the stage of delivery of the judgment, however, in the judgment which has been impugned in this appeal, the claim of the present appellants was not considered on merits, rather, it was dismissed on the question of territorial jurisdiction of the Motor Accident Claims Tribunal, Barpeta to entertain the said application.

[24] This court is of the considered opinion that since the provisions contained in Section 166 of the Motor Vehicles Act, 1988 are benevolent provision, every endeavour has to be made while interpreting the provisions of the Motor Vehicles Act, 1988 and connected statues which would facilitate the remedies provided for the victims of accidents.

[25] In view of the above discussion, this court set aside the impugned judgment and directs the transfer of MAC Case No. 377/2021 from the Motor Accident Claims Tribunal, Barpeta to the jurisdictional Motor Accident Claims Tribunal, Bajali i.e.,

the court of the learned District Judge, Bajali which is exercising the powers of Motor Accident Claims Tribunal, Bajali.

[26] The learned District Judge-cum-Member Motor Accident Claims Tribunal, Bajali shall proceed with the enquiry in MAC Case No. 377/2021 from the stage of argument and, thereafter, dispose of the aforesaid claims case after hearing both sides and by writing a fresh Judgment as expeditiously as possible.

[27] The Motor Accident Claims Tribunal, Barpeta shall transfer the records of MAC Case No. 377/2021 to the court of the learned District Judge-cum- Motor Accident Claims Tribunal, Bajali so that the records reaches the court of learned District Judge-cum-Member Motor Accident Claims Tribunal, Bajali latest by 20th August, 2026.

[28] Let a copy of this judgment be sent to the learned Member, Motor Accident Claims Tribunal, Barpeta as well as to the learned District Judge-cum-Member Motor Accident Claims Tribunal, Bajali for doing the needful.

Munmun Boruah Digitally signed by Munmun Boruah
Date: 2026.07.21 16:08:56 +05'30'

JUDGE

Comparing Assistant