GAHC010033512016

2026:GAU-AS:14991

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

Case No. : MACApp./393/2016

UNITED INDIA INSURANCE COMPANY LTD
HAVING ITS REGISTERED OFFICE and HEAD OFFICE AT 24 WHITES ROAD, CHENNAI AND ITS REGIONAL OFFICE AT G.S. ROAD, DISPUR, GUWAHATI.

VERSUS

MD AMSHER ALI and 4 ORS
S/O ABDUL BAREK, R/O VILL. PASCHIM BAHABARI, P.O. KHARUPETIA, P.S. DALGAON, DIST. DARRANG, ASSAM.

2:MD. AMSHER ALI

S/O ABDUL BAREK
R/O VILL. PASCHIM BAHABARI
P.O. KHARUPETIA
P.S. DALGAON
DIST. DARRANG
ASSAM.

3:MD. AINUL HAQUE
S/O LATE SADEK ALI
R/O VILL. PASCHIM BAHABARI
P.O. KHARUPETIA
P.S. DALGAON
DIST. DARRANG
ASSAM.

4:MD. BILLAL HUSSAIN

S/O ABDUL AZIZ
R/O VILL. MANDALPARA
P.O. GHANSHIMULLY

P.S. DALGAON
DIST. DARRANG
ASSAM.

5:MD. KASHEM ALI
S/O LATE INSAN ALI
R/O VILL. NO. 2 SHYAMPUR
P.O. KHARUPETIA
P.S. DALGAON
DIST. DARRANG
ASSAM.

6:THE BRANCH MANAGER

NEW INDIA ASSURANCE CO. LTD.
MALIGAON BRANCH
MALIGAON
DIST. KAMRUP
ASSAM

Advocate for the Petitioner : MR. S BHUYAN, MR. R GOSWAMI,MS. M SAIKIA,MS. P BORTHAKUR

Advocate for the Respondent : MS. M BARMAN (R1), MR M HUSSAIN (R4),MR. A K AZAD (R4),MR. N HAQUE (R4),MR. R K BHATRA (R6),MS. P HUJURI (R6),MR. K K BHATRA (R6),MR. M ISLAM (R1),MR A A DEWAN (R2),MR. R ISLAM (R2),MR. N ISLAM (R4),MR R B ISLAM (R4),MR. M A AHMED (R4)

:::BEFORE:::

HON'BLE MR. JUSTICE KARDAK ETE

Date on which judgment is reserved : N/A
Date of pronouncement of judgment : 06.10.2026
Whether the pronouncement is of
the operative of the judgment? : No
Whether the full judgment has been
pronounced? : Yes

JUDGMENT & ORDER (ORAL)

Heard Mr. R. Goswami, learned counsel for the appellant. Also heard Mr. M. Islam, learned counsel for respondent No. 1, Mr. A. K. Azad, learned counsel for respondent No. 4, and Mr. R. K. Bhatra, learned counsel for respondent No. 5.

2. This appeal has been preferred against the judgment and award dated 29.07.2016, passed by the learned Member, Motor Accident Claims Tribunal, Darrang, in MAC Case No. (i) 344/2010, whereby the learned Tribunal has awarded a sum of Rs. 5,30,000/- (Rupees five lakh thirty thousand) only as compensation to the respondent No. 1/claimant on account of the injuries sustained by him in a motor vehicle accident, with a direction to the appellant-United India Insurance Company Ltd. and the insurer of the tractor to pay the said amount in equal proportion, along with interest at the rate of 6% per annum from the date of filing of the claim petition till realization.

3. The case of the claimant, in brief, is that on 14.09.2010, at about 5:30 p.m., he, along with two other persons, was proceeding towards Paschim Bahabari from Mandalpara village as a labourer in a tractor bearing Registration No. **AS-13-9473**, along with its trailer bearing Registration No. **AS-13-1353**, carrying loaded jute and jute sticks. When the tractor and trailer reached Nimtoli, several trucks and buses were approaching from the opposite direction, whereupon the driver of the tractor moved the vehicle towards the left side of the road and suddenly hit an electric post. As a result, a live high-voltage electric wire fell upon the tractor and trailer, causing them to be electrocuted and resulting in grievous injuries to the claimant. The claimant was initially taken to Kharupetia Hospital and thereafter referred to Mangaldai Civil Hospital, from where he was referred to Gauhati Medical College and Hospital (GMCH). He was admitted at GMCH on 14.09.2010 and remained there as an indoor patient until 01.11.2010. During the course of treatment, his left leg was amputated below the knee and he also sustained extensive burn injuries to his right hand, resulting in permanent disability.

4. The owners and driver of the tractor and the owner of the trailer contested the case, denying their liability, while admitting that the tractor and trailer were duly registered, possessed valid fitness certificates and were insured with respondent No. 5- New India Assurance Company Ltd. and the appellant-United India Insurance Company Ltd., respectively. The appellant, being the insurer of the trailer, denied the claim and, *inter alia*, contended that the driver did not possess a valid driving licence and that there was no valid permit and fitness certificate, besides alleging violation of the terms and conditions of the insurance policy and contributory negligence on the part of the claimant. It was further contended that no premium had been paid for covering the risk of any

labourer or person travelling in the trailer and the trailer was insured under an agricultural liability only policy.

5. On the basis of the pleadings, the learned Tribunal framed 3 (three) issues relating to the occurrence of the accident due to rash and negligent driving involving the tractor and trailer, the validity of the insurance coverage of the offending vehicles, and the relief, if any, to which the claimant was entitled. Upon consideration of the oral and documentary evidence adduced by the parties, the learned Tribunal held that the accident had occurred due to the rash and negligent driving of the tractor and that the claimant had sustained grievous injuries in the said accident. The learned Tribunal further held that the tractor and trailer were duly insured and the claimant, who was travelling in the trailer as a labourer for loading and unloading jute and jute sticks, was covered under the agricultural liability policy. The learned Tribunal accordingly held both insurers liable to pay the compensation in equal proportion.

6. Mr. R. Goswami, learned counsel for the appellant, submits that the impugned judgment and award dated 29.07.2016 is unsustainable in law and on facts, insofar as the learned Tribunal has fastened liability upon the appellant-United India Insurance Company Ltd. in respect of the injuries sustained by the respondent No. 1/claimant. He submits that the evidence on record clearly establishes that the accident occurred due to the rash and negligent driving of the tractor bearing Registration No. AS-13-9473, and there is neither any allegation nor any evidence attributing negligence to the trailer bearing Registration No. AS-13-1353. Therefore, the learned Tribunal has erred in holding the appellant, being the insurer of the trailer, equally liable for payment of compensation.

7. Learned counsel for the appellant further submits that the claimant himself

had described himself as a labourer of the tractor, whereas, in his evidence, he stated that he was travelling in the trailer. In the absence of any coverage under the policy for carrying persons in the trailer, the claimant was merely a gratuitous passenger and the risk of such a passenger was not covered under the policy issued by the appellant. The trailer was insured under an **"Agricultural Liability Only"** policy, under which the vehicle was intended for carrying agricultural goods and no premium had been paid for covering the risk of any person travelling therein. Therefore, he submits that, having regard to the nature of the insurance policy and the absence of any premium paid for covering the risk of a gratuitous passenger, the appellant cannot be saddled with liability for the injuries sustained by the claimant. More so, he submits that Section 147 of the Motor Vehicles Act, 1988, does not require an insurer to cover the risk of a gratuitous passenger travelling in a goods-carrying vehicle and as such, the finding of the learned Tribunal fastening equal liability upon the appellant is contrary to the settled position of law.

8. Mr. R. K. Bhatra, learned counsel for respondent No. 5, while refuting the submissions advanced on behalf of the appellant, submits that the learned Tribunal has rightly fastened liability upon both the insurers in equal proportion. The claimant was not a gratuitous passenger, as alleged by the appellant, but was travelling in the trailer as a labourer for loading and unloading jute and jute sticks, which are agricultural produce. The learned Tribunal, upon appreciation of the evidence on record, has rightly held that the claimant's presence in the trailer was incidental to its agricultural purpose and was, therefore, covered under the agricultural liability policy. He submits that the tractor and trailer were separately registered and insured vehicles and the claimant was travelling in the trailer at the time of the accident. Therefore, the appellant cannot avoid its

liability merely by contending that the accident was caused by the negligence of the tractor driver.

9. Considered the submissions of learned counsel for the parties and also perused the materials available on record, including the impugned judgment and award dated 29.07.2016, passed by the learned Member, Motor Accident Claims Tribunal, Darrang, in MAC Case No. (i) 344/2010.

10. From the record, it is seen that on 14.09.2010, at about 5:30 p.m., the respondent No. 1/claimant was travelling along with two other persons in the trailer bearing Registration No. AS-13-1353, attached to tractor bearing Registration No. AS-13-9473, carrying loaded jute and jute sticks from Mandalpara village towards Paschim Bahabari. When the tractor and trailer reached Nimtoli, the driver of the tractor moved the vehicle towards the left side of the road and hit an electric post, as a result of which a live high-voltage electric wire fell upon the tractor and trailer, causing grievous burn injuries to the claimant. The claimant was initially taken to Kharupetia Hospital and thereafter referred to Mangaldai Civil Hospital and subsequently to GMCH, where he remained admitted till 01.11.2010. During the course of treatment, his left leg was amputated below the knee and he also sustained burn injuries to his right hand.

11. It is noticed that the claimant examined himself as PW1 and his evidence regarding the manner of occurrence was supported by PW2, Md. Mujamil Hoque. PW2 also exhibited the F.I.R. as Ext.1, which shows that Dalgaon P.S. Case No. 540/2010 was registered in connection with the accident. PW3, Smti. Kabita Baruah, Junior Assistant, Artificial Limb Centre Andolyte, proved the quotation for an artificial limb, while PW4, Dr. Hiranmoy Das, deposed regarding the injuries and treatment of the claimant. PW5, Sri Pradip Chamua, proved the

relevant disablement records showing 60% disability of the claimant. On the other hand, the appellant-insurer of the trailer examined DW1, Sri Biren Chandra Nath, Administrative Officer of the United India Insurance Company Ltd., who deposed regarding the nature of the insurance policy covering the trailer, which was an "Agricultural Liability Only" policy.

12. From the aforesaid evidence, it is seen that the respondent No. 1/claimant was travelling in the trailer along with the agricultural produce, namely, jute and jute sticks, and was engaged as a labourer for loading and unloading the said agricultural produce. The evidence of PW1 and PW2 on this aspect has not been materially shaken in cross-examination. There is also no evidence on record to establish that the claimant was travelling in the trailer as a gratuitous passenger having no connection with the goods being carried therein.

13. It is also not in dispute that the trailer was covered under an "Agricultural Liability Only" policy issued by the appellant. The learned Tribunal, after considering the evidence of DW1, the Administrative Officer of the appellant, as well as the evidence of the claimant and his witnesses, came to the conclusion that the claimant was an agricultural labourer engaged in loading and unloading the agricultural produce carried in the trailer. The learned Tribunal accordingly held that the presence of the claimant in the trailer was incidental to the agricultural purpose for which the trailer was being used.

14. The main contention of the learned counsel for the appellant is that the claimant was a gratuitous passenger and that the agricultural liability only policy did not cover the risk of such a person. However, in the facts of the present case, the said contention cannot be accepted. The claimant was not travelling in the trailer as a passenger unconnected with its use. He was travelling as a labourer along with the jute and jute sticks which were being transported for

the purpose of loading and unloading the same. Thus, his presence in the trailer was directly connected with the agricultural use of the vehicle. In such circumstances, the learned Tribunal cannot be said to have committed any error in holding that the claimant came within the purview of the agricultural liability covered by the policy.

15. As regards the contention of the appellant that the accident occurred solely due to the rash and negligent driving of the tractor and there was no allegation or evidence of negligence against the trailer, it is true that the learned Tribunal has recorded a finding that the accident occurred due to the rash and negligent driving of the tractor. However, the claimant was travelling in the trailer which was attached to the tractor at the relevant time and the injuries were sustained by him while he was travelling in the said trailer. The trailer was a separately registered motor vehicle and was duly insured with the appellant. In the facts as found by the learned Tribunal, the mere fact that the immediate cause of the accident was the negligence of the tractor driver does not answer the separate question as to whether the claimant's risk was covered under the policy issued in respect of the trailer. Having regard to the finding, based on the evidence on record, that the claimant was an agricultural labourer accompanying the agricultural produce for the purpose of loading and unloading, the appellant has not been able to establish that his presence in the trailer was unauthorized or he was a gratuitous passenger unconnected with the agricultural use of the vehicle.

16. It is also noticed that the tractor and the trailer were separately registered and separately insured. The learned Tribunal, upon appreciation of the oral and documentary evidence, found that the claimant was travelling in the trailer in connection with the agricultural produce carried therein and that his risk was

covered under the agricultural liability policy. The appellant has not been able to demonstrate that the said finding is perverse or suffers from any error of law warranting interference by this Court. Consequently, the finding fastening liability upon both the insurers in equal proportion does not call for interference.

17. The submission of the learned counsel for the appellant that no premium was paid for covering the risk of the claimant also cannot be accepted in the facts of the present case. The evidence on record establishes that the claimant was travelling in the trailer as an agricultural labourer along with the jute and jute sticks being carried therein for the purpose of loading and unloading the same. His presence in the trailer was thus essentially connected with the agricultural use of the vehicle and cannot be treated as that of a gratuitous passenger. The learned Tribunal, having regard to the aforesaid facts and the nature of the policy, has rightly held that the claimant was covered under the agricultural liability policy.

18. Upon consideration of the materials available on record, this Court finds no infirmity in the finding of the learned Tribunal that the respondent No. 1/claimant was covered under the agricultural liability policy issued in respect of the trailer. The learned Tribunal has considered the oral and documentary evidence and has assigned reasons for fastening liability upon both the insurers in equal proportion. The appellant has not been able to demonstrate any perversity, illegality or error of law warranting interference with the impugned judgment and award.

19. In view of the foregoing discussion, I find no merit in the present appeal and accordingly, the same stands dismissed. In the result, the judgment and award dated 29.07.2016, passed by the learned Member, Motor Accident Claims Tribunal, Darrang, in MAC Case No. (i) 344/2010, is hereby affirmed.

20. The statutory deposit, if any, shall be returned.

21. MAC appeal stands disposed of.

22. The Registry shall send back the records to the learned Tribunal forthwith.

JUDGE

Comparing Assistant