GAHC010219502017

2026:GAU-AS:576

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

Case No. : MACApp./396/2017

THE ORIENTAL INSURANCE COMPANY LTD
A CENTRAL GOVT. UNDERTAKING HAVING ITS REGIONAL OFFICE AT GUWAHATI, G.S. ROAD, ULUBARI, GUWAHATI REPRESENTED BY THE ASSTT. MANAGER, GAUHATI REGIONAL OFFICE, ULUBARI, GUWAHATI-781005

VERSUS

MUSSTTRUSNA BEGUM LASKAR and 6 ORS
W/O LATE TAJ UDDIN

2:MD. PERBEJ ALOM LASKAR
S/O LATE TAJ UDDIN

3:MISS HASI BEGUM LASKAR
D/O LATE TAJ UDDIN

4:MD. PERBEJ ALOM HABIB ALI @ MD. HABIB ALI LASKAR
S/O LATE JAUGH ALI LASKAR

5:MACHUNGLONG RONGMEI
VILL. DAKHIN MOHANPUR-VI
P.O. KACHUDARAM
P.S. SONAI
DIST. CACHAR
ASSAM
PIN 788119 OWNER

6:MD. ANAMUL HAQUE LASKAR

S/O M.R. LASKAR
VILL. SATKARAKANDI PART-I

P.O. SATKARAKANDI
P.S. SONAI
DIST. CACHAR
ASSAM
PIN 788013 DRIVE

Advocate for the Petitioner : MR.S P SHARMA, MS.C MOZUMDAR,MS.R D MOZUMDAR

Advocate for the Respondent : FOR CAVEATOR, MR. A SHAKIL (r-1,2,3),MR. R GOSWAMI,MR.M TALUKDAR (r-1,2,3),MRS. R RONGMEI (R6),MS. K L R YANTHAN (R6)

Linked Case : I.A.(Civil)/2638/2017

THE ORIENTAL INSURANCE COMPANY LTD
A CENTRAL GOVT. UNDERTAKING HAVING ITS REGIONAL OFFICE AT GUWAHATI
G.S. ROAD
ULUBARI
GUWAHATI REPRESENTED BY THE ASSTT. MANAGER
GAUHATI REGIONAL OFFICE
ULUBARI
GUWAHATI-781005

VERSUS

MUSSTTRUSNA BEGUM LASKAR and 6 ORS
W/O LATE TAJ UDDIN

2:MD. PERBEJ ALOM LASKAR
S/O LATE TAJ UDDIN

3:MISS HASI BEGUM LASKAR
D/O LATE TAJ UDDIN

4:MD. PERBEJ ALOM HABIB ALI @ MD. HABIB ALI LASKAR
S/O LATE JAUGH ALI LASKAR

5:MACHUNGLONG RONGMEI
VILL. DAKHIN MOHANPUR-VI
P.O. KACHUDARAM
P.S. SONAI
DIST. CACHAR

ASSAM
PIN 788119 OWNER

6:MD. ANAMUL HAQUE LASKAR

S/O M.R. LASKAR
VILL. SATKARAKANDI PART-I
P.O. SATKARAKANDI
P.S. SONAI
DIST. CACHAR
ASSAM
PIN 788013 DRIVER

Advocate for : MR.S P SHARMA
Advocate for : MR.M TALUKDAR appearing for MUSSTTRUSNA BEGUM LASKAR and 6 ORS

:: BEFORE ::

(HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA)

Advocate(s) for the Appellants	:	Mrs. R.D. Mozumdar, Advocate.
Advocate(s) for the Respondent(s)	:	Mr. R. Goswami, Advocates.
Date on which judgment is reserved	:	04.11.2025.
Date of pronouncement of judgment	:	20.01.2026.
Whether the pronouncement is of the operative part of the judgment?	:	YES.
Whether the full judgment has been pronounced?	:	YES.

JUDGMENT AND ORDER (CAV)

Heard Mrs. R.D. Mozumdar, the learned counsel representing the appellant Insurance Company as well as Mr. R. Goswami, the learned counsel appearing for the respondents.

2. This is an appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment dated 16.02.2017 passed by the learned Member, Motor Accident Claims Tribunal, Cachar, Silchar in MAC Case No.1490/2010.

3. On 01.08.2010, the deceased Taj Uddin, aged about 30 years and was earning ₹5,000/- per month, going towards his house on foot. At about 9 P.M., when he reached N.R.E.P. Road, a Hero Honda Motorcycle bearing Registration No.AS-11-E-2365 knocked Taj Uddin from behind. He sustained serious injuries. He was immediately shifted to Silchar medical College & Hospital. On 21.08.2010, Taj Uddin succumbed injuries in the hospital.

4. A claim application was filed before the Tribunal seeking compensation.

5. The aforesaid motorcycle was driven by Machunglong Rongmei. In his written statement, he claimed to have a valid driving licence and a valid insurance policy.

6. The Insurance Company contested the claim petition by filing a written statement. The only material plea take by the Insurance Company is that the claimant had claimed an exhorbitant amount of compensation.

7. At the time of hearing, the claimants examined the claimant Musstt. Rusna Begum Laskar only. She exhibited some documents also. Exhibit-2 is the FIR and Exhibit-3 is the Medical Certificate of cause of death issued by Silchar Medical College and Hospital, Silchar. In Ext.3 it was mentioned that the deceased Taj Uddin died because of septicemia following infections of the wounds sustained during his lifetime.

8. The Tribunal held that the death of the deceased cannot be connected to the accident where he sustained injuries. Therefore, by a formal judgment on 06.11.2013, the Tribunal dismissed the claim petition.

9. Thereafter, the claimants filed a review petition being Misc. Case No.61/2013 before the Tribunal praying for reviewing the said judgment. The Tribunal, after hearing both sides, on 21.06.2014, allowed the review petition and set aside the judgment dated 06.11.2013 and directed the parties to exhibit some more documents and also directed the claimants to adduce further evidence in order to exhibit those documents.

10. Thereafter, the Tribunal framed the following issues:

1. Whether the deceased met motor accident on 01.08.2010 and the accident occurred due to rash and negligent driving of the driver of the motorcycle bearing Registration No.AS-11-E-2365?

2. Whether the deceased sustained injury and died due to motor accident?

3. Whether the claimants are entitled to compensation? If so, what amount is just and reasonable?

4. To what other relief/reliefs the claimants are entitled?

11. During the hearing, the claimants, examined witnesses. The driver of the motorcycle as well as the Insurance Company did not examine any witnesses.

12. On the basis of the evidence on record, the Tribunal allowed the prayer of the claimants and awarded a compensation of ₹16,60,237/-. The Insurance Company was directed to pay the said amount.

13. On being aggrieved by the aforesaid judgment, the present appeal has been filed.

14. The appellant Insurance Company claimed that the Motor Accident Claims Tribunal does not have jurisdiction to review its own order. Ms. Mozumdar has submitted that the claimant should have filed an appeal against the judgment dated 06.11.2013.

15. Ms. Mozumdar has submitted that power of review is not an inherent power of the Tribunal. The learned counsel has submitted that Motor Vehicles Act does not confer the power of review. Ms. Mozumdar has relied upon the judgment of the Hon'ble Supreme Coiurt that was delivered in *Lily Thomas v. Union of India*, reported in *(2000) 6 SCC 224*. Paragraph 56 of the said judgment is quoted as under:

> "**56.** It follows, therefore, that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise. The mere possibility of two views on the subject is not a ground for review. Once a review petition is dismissed no further petition of review can be entertained. The rule of law of following the practice of the binding nature of the larger Benches and not taking different views by the Benches of coordinated jurisdiction of equal strength has to be followed and practised. However, this Court in exercise of its powers under Article 136 or Article 32 of the Constitution and upon satisfaction that the earlier judgments have resulted in deprivation of fundamental rights of a citizen or rights created under any other statute, can take a different view notwithstanding the earlier judgment."

16. I have considered the submissions made by the learned counsel of both sides.

17. The power of review in not an inherent power of any court. It must be conferred by the statute. The Code of Civil Procedure confers the power of review while Order 47 Rule 1. But Motor Vehicles Act has no such provisions. Therefore, Motor Accident Claims Tribunal cannot review its own order except for typographical errors. By exercising the power of review, the Motor Accident Claims Tribunal is not entitled to substitute a view with another view. Even a civil court exercising jurisdiction under the Code of Civil Procedure cannot substitute one view with another by exercising power of review under Order 47 Rule 1. After passing of the judgment on 06.11.2013, the Tribunal became functus officio. The claimants should have filed an appeal before this Court against the said judgment. The Tribunal erroneously exercised the power of review.

18. Under the aforesaid circumstances, the appeal is allowed. The impugned judgment dated

16.02.2017 passed by the learned Member, Motor Accident Claims Tribunal, Cachar, Silchar in MAC Case No.1490/2010 is set aside.

The appeal along with the connected Interlocutory Application are disposed of accordingly.

Send back the TCR.

JUDGE

Comparing Assistant