GAHC010053282019

2026:GAU-AS:16001

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

Case No. : WP(C)/1854/2019

RABI SHANKAR BORO
S/O- LT PHUKAN CHANDRA BORO, R/O- PASCHIM BORAGAON,
MIKIRGHULI, UNDER GARCHUK P.S. DIST. KAMRUP, ASSAM

VERSUS

THE ORIENTAL INSURANCE CO. LTD. AND 3 ORS.
G.S.ROAD, ULUBARI, GHY, KAMRUP (M), ASSAM

2:THE MEMBER MOTOR ACCIDENT CLAIMS TRIBUNAL NO.2
KAMRUP (M)
GHY

3:SHRI LAXMAN DAS
S/O- ANUP LAL DAS
DWARKA NAGAR
GOSHALA
MALIGAON
GHY-12

4:PINKY DAS @ PRITI DAS
W/O- SRI SANJAY DAS
ADABARI COLONY
P.O. PANDU
DIST- KAMRUP (M)
GHY
ASSA

Advocate for the Petitioner : MR. D K DAS, MS D HAZARIKA

Advocate for the Respondent : MR SISHIR DUTTA, MR. S DUTTA,MR D CHAKRABORTY (R3)

- B E F O R E -

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

For the petitioner : Mr. D.K.Das, Sr. counsel
Ms. M.Boro, counsel

For the respondents : Mr. S. Dutta, Sr. counsel
Mr. S. Dutta, counsel

Date on which judgment was reserved :

Date of pronouncement of judgment : 02.11.2026

Whether the pronouncement is of the
operative part of the judgment? : No

Whether the judgment has been pronounced? : Yes

JUDGMENT & ORDER (ORAL)

BEFORE

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

02-11-2026

1. Heard Mr. D. K. Das, learned Senior counsel assisted by Ms. M. Boro, learned counsel for the petitioner. Also heard Mr. S. Dutta, learned Senior counsel assisted by Mr. S. Dutta, learned counsel for the respondents.

2. The challenge in the present writ petition is to the proceeding registered as Misc. Case No. 13/2017 before the Motor Accidents Claims Tribunal No. 2, Kamrup (M), Guwahati at the instance of the Oriental Insurance Company Ltd. (hereinafter referred to as "the Insurance Company") seeking recovery of the amount paid by it in satisfaction of the award passed in MAC Case No. 335/2013.

3. The aforesaid claim proceeding was instituted by Smt. Pinky Das @ Priti Das, under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the MV Act"), claiming compensation for injuries sustained by her in a motor vehicle accident dated 15.01.2013. The rider of the offending motorcycle was arrayed as opposite party No. 2, whereas the present petitioner was impleaded as opposite party No. 3 in his capacity as the owner of the vehicle. The proceeding proceeded Ex-parte against both.

4. The Insurance Company with which the motorcycle bearing registration No. AS-01-AL-9281 was insured, contested the claim petition, inter alia, on the ground that the rider did not possess a valid and effective driving licence on the date of the accident. In support of its defence, the Insurance Company adduced evidence through

DW-1.

5. By the judgment and order dated 30.08.2016, the Tribunal awarded compensation of Rs.83,000 /-with interest @ 6% per annum in favour of the claimant, directing the Insurance Company to satisfy the award with liberty to recover the amount from the present petitioner, being the owner of the offending vehicle.

6. The learned Senior counsel for the petitioner contends that the petitioner was not served with notice in the original claim proceeding and consequently was deprived of an opportunity to contest the same.

7. However, on a specific query from the Court, the learned Senior counsel for the petitioner fairly submits that neither has any application seeking recall of the Ex-parte award been filed nor has the award been assailed in appeal.

8. The Insurance Company thereafter initiated the proceeding, registered as Misc. Case No. 13/2017, before the Tribunal, seeking enforcement of the recovery direction contained in the award.

9. The principal contention advanced on behalf of the petitioner is that, upon disposal of the MAC Case No. 335/2013 by the judgment and order dated 30.08.2016, the Tribunal became *functus officio* and therefore, lacked jurisdiction to entertain any subsequent proceeding at the instance of the Insurance Company for recovery of the amount.

10. The aforesaid contention proceeds on an erroneous understanding of the statutory scheme governing the recovery of amount awarded by a Claims Tribunal under the MV Act.

11. Section 174 of the MV Act provides that where any amount is due from any person under an award, the Claims Tribunal may, on application made to it by the person entitled to the amount, issue a certificate for the amount to the Collector, who

shall proceed to recover the same in the same manner as an arrear of land revenue.

12. A bare reading of the aforesaid provision makes it evident that the Tribunal is statutorily empowered to issue a recovery certificate to the Collector for enforcement of an amount found due under its award. The provision does not contemplate that the Tribunal itself shall undertake the process of recovery. The actual recovery is to be undertaken by the Collector through the machinery prescribed for the recovery of arrears of land revenue, which in the State of Assam includes the procedure under the Bengal Public Demands Recovery Act, 1913 (hereinafter referred to as the Recovery Act), as applicable to the State and competent Pakijai authorities.

13. The expression "any person entitled to the amount" occurring in Section 174 of the MV Act cannot be construed to exclude an insurer in whose favour the Tribunal has expressly adjudicated and granted a right of recovery against the insured owner. Once the Tribunal, upon adjudication of defence available to the insurer, directs the insurer to satisfy the award in the first instance with liberty to recover the amount from the insured, the amount so recoverable constitutes an amount due under the award within the meaning of Section 174 of the MV Act.

14. It is by now well-settled that an insurer in whose favour a right of recovery has been recognized is not required to institute a separate Suit and may initiate appropriate proceeding for recovery before the competent forum. The underlying principle is that the insurer's right of recovery, once recognized in the adjudication under the MV Act, is enforceable without requiring a fresh adjudication of the same dispute in an independent Civil Suit.

15. Thus, the Tribunal, having already adjudicated the respective rights and liabilities of the insurer and the insured in the original claim proceeding, does not become *functus officio* for the limited purpose of entertaining an application seeking the issuance of a recovery certificate under Section 174 of the MV Act. Such an

application does not reopen the adjudication concluded by the award, nor does it amount to a fresh adjudication of the original claim. It is only a statutory step towards the enforcement of the recovery direction already incorporated in the award.

16. The grievance of the petitioner regarding non-issuance of notice in the original claim proceeding, in the absence of any challenge to the award by resorting to the remedies available in law, cannot be converted into a ground to invalidate the subsequent statutory proceeding for issuance of a recovery certificate. The recovery proceeding, however, must remain confined to the enforcement of the recovery direction contained in the award.

17. The petitioner, under the mandate of the Recovery Act, is required to be afforded an opportunity of notice and hearing concerning the payment, computation, and recoverable amount. The merits of the concluded award cannot be reopened in such proceeding.

18. In view of the above, this Court finds no jurisdictional infirmity in the Tribunal entertaining Misc. Case No. 13/2017 for the purpose of considering the application of the insurance company for issuance of a recovery certificate under Section 174 of the MV Act.

19. Accordingly, the instant writ petition stands dismissed.

20. The Tribunal shall proceed with the application in accordance with law, keeping in view the statutory scheme under Section 174 of the Motor Vehicles Act, 1988, and the determination made hereinabove.

21. The interim order, passed earlier, if any, stands vacated.

JUDGE

Comparing Assistant