GAHC010079672024

2026:GAU-AS:16250

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

Case No. : MC/34/2024

NATIONAL INSURANCE CO. LTD
A GOVERNMENT OF INDIA UNDERTAKING CO. HAVING ITS REGISTERED OFFICE AT MIDDLETON STREET, KOLKATTA, AND ONE OF THE REGIONAL OFFICE SITUATED AT GS ROAD BHANGAGARH, GUWAHATI 781005

VERSUS

SMT NIRU DUTTA AND 6 ORS
W/O LT BUBUL DUTTA @ BABUL DUTTA RESIDENT OF VILLAGE DAKHIN DULIA KAMAR CHUK, PO UTTAR DULIA PS TEOK, DIST JORHAT, ASSAM 785112

2:SRI BIKASH DUTTA
S/O LT BUBUL DUTTA @ BABUL DUTTA
RESIDENT OF VILLAGE DAKHIN DULIA KAMAR CHUK

PO UTTAR DULIA PS TEOK
DIST JORHAT
ASSAM 785112

3:SRI PRAKASH DUTTA
S/O LT BUBUL DUTTA @ BABUL DUTTA
RESIDENT OF VILLAGE DAKHIN DULIA KAMAR CHUK

PO UTTAR DULIA PS TEOK
DIST JORHAT
ASSAM 785112

4:MISS JOONTI DUTTA
D/O LT BUBUL DUTTA @ BABUL DUTTA
RESIDENT OF VILLAGE DAKHIN DULIA KAMAR CHUK

PO UTTAR DULIA PS TEOK
DIST JORHAT
ASSAM 785112

5:SRI AKASH DUTTA
S/O LT BUBUL DUTTA @ BABUL DUTTA
RESIDENT OF VILLAGE DAKHIN DULIA KAMAR CHUK

PO UTTAR DULIA PS TEOK
DIST JORHAT
ASSAM 785112
TO BE REPRESENTED BY HIS MOTHER SMTI NIRU DUTTA

6:SRI SNEHESH BISWAS

S/O LATE NIROD BISWAS
R/O KALIDHAM COLONY
DUM DUM
PO KOLKATA-28
WEST BENGAL
700028
DRIVER

7:SRI ABHIJIT CHOWDHARY
S/O N
K CHOWDHARY
R/O 67 VIVEKANANDA ROAD
NORTH
RABINDRA NAGAR KOLKATTA
WEST BENGAL
700065
OWNE

Advocate for the Petitioner : MRS. D DAS BARMAN, MS. P CHUTIA

Advocate for the Respondent : MR. P J SAIKIA,

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 05.11.2026

1. Heard Ms. D. D. Barman, learned counsel for the petitioner. Also heard Mr. D. Dutta, learned counsel for the respondents.

2. This is an application under Order 41 Rule 17 of the Civil Procedure Code praying for restoration of MAC Appeal No.137/2023, which was dismissed for default on 21.02.2024 by this Court.

3. The petitioner has submitted that they had engaged one advocate and for his fault the case was dismissed. He did not appear on 5 dates fixed by this Court. The respondents have filed an objection. The plea taken in the objection is that the Divisional Manager of the Insurance Company was negligent and for his own negligence, the incident happened.

4. I have considered the submissions made by the learned counsel for both sides and have gone through the Memorandum of Appeal filed by the Insurance Company.

5. This Court is of the opinion that there are some grounds which requires judicial scrutiny. This Court is also of the opinion that for the fault of the lawyer, a litigant should not suffer.

6. For these two reasons, the application praying for restoration of the MAC Appeal is allowed.

7. The connected MAC Appeal No.137/2023 shall be restored to file and shall be listed after 2 (two) weeks for orders.

8. The MC/34/2024 stands disposed of.

JUDGE

Comparing Assistant