GAHC020004602026 2026:GAU-NL:620

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

**Case No. : MACApp./22/2026**

THE ORIENTAL INSURANCE CO. LTD.
HAVING ITS REGISTERED AND HEAD OFFICE OF ORIENTAL HOUSE A - 25/27, ASAF ALI ROAD, NEW DELHI - 110002 AND REGIONAL AND DIVISIONAL OFFICES IN SEVERAL PLACES, INCLUDING REGIONAL OFFICE AT GUWAHATI, ASSAM AND A DIVISIONAL OFFICE AT DIMAPUR IN THE STATE OF NAGALAND

VERSUS

SHRI DIPANKAR AND 3 ORS
H/NO. SUCHITRA DEBI @ SUCHITRA DEBNATH, R/O DMC WARD - 16, DIMAPUR, NAGALAND

2:MRS. SUCHITRA DEBI @ SUCHITRA DEBNATH
W/O DIPANKAR DEBNATH
R/O DMC
WARD - 16
DIMAPUR
NAGALAND (REPRESENTED BY RESPONDENT NO. 1)

3:MR. W. JOHN EZUNG
S/O WOTHUNGO EZUNG
R/O HOUSE NO. 249
ISLAND COLONY
DIMAPUR - 797112
NAGALAND (OWNER OF THE VEHICLE NO. NL-07/H-7265 (AUTO RICKSHAW)

4:MR. RENJAMO EZUNG
S/O W. JOHN EZUNG
R/O H/NO. 249

ISLAND COLONY
DIMAPUR 797112
NAGALAND (DRIVER OF THE VEHICLE NO. 07/H7265 (AUTO
RICKSHAW

**Advocate for the Petitioner** : KIM PIENYU, ACHIBA OZUKUM,PANGOM W KHEMAN,KETI IMCHEN,REBECCA,LAKNYEI PHOM

**Advocate for the Respondent** : CHUBANUNGKUM (R/ 1 & 2), N K CHISHI (R/1 & 2)

**BEFORE**
**HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER**

**O R D E R**

**16.11.2026**

**1.** By filing the instant appeal under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as the MV Act), the Appellant/Insurance Company has challenged the judgment and award dated 19.03.2026 passed by the learned MACT, Dimapur, Nagaland, in MAC Case No. 58/2024.

**2.** Heard Ms. Kim Pienyu, learned counsel for the Appellant. Also heard Mr. N.K. Chishi, learned counsel for Claimant/Respondent Nos. 1 and 2. Also heard Mr. P. Surien, learned counsel for Respondent Nos. 3 and 4.

**3.** The main ground taken by the Appellant herein is that the Respondents as Claimants have filed their claim petition under Section 166 of the MV Act where the Claimants have to prove rash and negligent act. However, in the instant case, even though any road accident attracts the provisions of Section 281/117(2)/106(1) of the BNS and these sections fall under cognizable offences, where filing of FIR is mandatory the instant

claim petition was filed without an FIR. Therefore, in the absence of such documentary evidence, the claim being filed under Section 166 of the MV Act is not maintainable.

**4.** The other ground taken by the Appellant herein is that no evidence was adduced to prove the extent of the Claimant's injury by any doctor and also no disability certificate was submitted by the Respondent/Claimant. The learned Tribunal, however, has awarded an amount of Rs. 1,92,000/- (Rupees One Lakh Ninety-two Thousand only) under the head of Loss of Income. In this regard, the learned counsel for the Appellant relies on the judgment of this Court dated 17.07.2026 passed in MACApp./20/2025 wherein this Court had remanded back the case to the learned Tribunal for examining the doctor or any member of the medical board. In the instant case also such a direction is prayed for by the Appellant.

**5.** The learned counsel for the Appellant has further stated that there is discrepancy in as far as the money receipts/bills for the ambulance services is concerned, as the bill numbers did not tally with the dates. Further, there were no doctor's prescriptions against the medical expenses in the documents exhibited by the Claimants/Respondents.

**6.** Further, the learned counsel for the Appellant submits that the Claimants did not come before the Tribunal with clean hands, inasmuch as the parties had settled the matter amicably outside the court and accordingly the matter had been compromised. However, the Claimants/Respondents approached the learned Tribunal seeking for

double financial benefits and on such grounds, challenge has been made to the impugned judgment and order dated 19.03.2026 passed in MAC Case no. 58/2024.

**7.** Learned counsel, Mr. N.K. Chishi, appearing on behalf of the Respondent/Claimant Nos. 1 and 2 has contested the appeal on the ground that the accident was caused purely due to rash and negligent driving of the Brezza vehicle bearing Registration No. NL-07H-7625 which hit the stationary Maruti Car from behind. Therefore, the Claimants had filed the claim petition praying for compensation against the owner, driver and insurer of the Brezza vehicle bearing Registration No. NL-07H-7625 and therefore, the petition is maintainable.

**8.** Learned counsel for the Claimant/Respondent also states that the Appellant had duly entered appearance before the Tribunal and has not disputed the factum of the accident. Therefore, they could not be allowed to raise this ground at the stage of appeal.

**9.** Another ground taken by the Respondents/Claimants is that the Tribunal has not awarded any amount under the head of Loss of Future Income in view of permanent disability of the Respondent/Claimant and, therefore, the question of examining a doctor or producing a disability certificate did not arise.

**10.** The learned counsel further submits that even after the disposal of MAC Case No. 58/2024, the Claimant/Respondent is still undergoing treatment and has enclosed the medical treatment certificate as

Annexure-1 in his affidavit-in-opposition. He, therefore, submits that the award of Rs. 1,00,000/- with regard to future medical expenses and the award of Rs. 54,000/- with regard to ambulance charges is not liable to be interfered with by this Court.

**11.** Learned counsel further submits that since the factum of the accident is not disputed and the injuries sustained by the Claimant/Respondent No. 2 are also not disputed by the Appellants, the Tribunal has rightly awarded the compensation to the Claimant Respondents and prays that the same may not be interfered with.

**12.** Learned counsel, Mr. P. Surien, appearing for Respondent Nos. 3 and 4 has also filed an affidavit-in-opposition and has adopted the submissions made by the learned counsel for the Respondent Nos. 1 and 2.

**13.** This Court has duly considered the submission of the learned counsel for the parties and has examined the Trial Court Records.

**14.** This Court has seen that the Appellant has entered appearance before the learned Tribunal and has duly contested the matter. The Tribunal in the judgment dated 19.03.2026 has observed that the factum of the accident has not been disputed by the opposite parties that on 01.06.2024 an accident occurred near the Referral Hospital (CISHR), wherein the vehicle bearing Registration No. NL-07H-7625 Maruti Brezza hit a vehicle, Maruti Car from the back which hit the victim, who was a pedestrian and caused the injuries. It was held that the factum of the accident is duly established by the police report produced as Exhibit P-

2/PW1 and the medical reports at Exhibit P-7 series establish that the victim had suffered injury on account of the said accident. Even before this Court, there is no dispute regarding the fact of the accident and the injuries sustained by the Claimant/Respondent No. 2.

**15.** In respect of the plea of the Appellant regarding the non-examination of a doctor, this Court is of the view that the Claimant in the claim petition has also not made any claims regarding loss of income due to permanent disability. The Tribunal has also not awarded any amount under the loss of income due to permanent disability. In such circumstances, this Court finds that there was no requirement of examining a doctor or producing a disability certificate before the Tribunal and hence this ground by the Appellant is rejected. The facts in MACApp./20/2025 are different from the instant case as MACApp./20/2025 was a case of permanent disability.

**16.** Upon examining the impugned judgment, this Court has also observed that the learned Tribunal had come to a finding in respect of the Issue No. 3, that the accident occurred on 01.06.2024 and the victim appeared before the Tribunal for evidence on 31.07.2025 and the victim was not bed-ridden at that time and she could walk and stand during the trial. The Tribunal also held that if the Claimant/Respondent No. 2 had not been bed-ridden after the accident in that case she did not lose her income for two years. However, contrary to the said finding, the learned Tribunal has awarded an amount of Rs. 1,92,000/- on account of loss of earnings for two years. This Court is of the view that such amount could not have been awarded after arriving at a finding that there was no loss of

income for two years.

**17.** With regard to the other awards under the head of medical expenses, future medical expenditure, ambulance charges, pain and suffering, liability of the victim to lead a normal life, damages for hardship, inconvenience and discomfort in life, and loss of expectation of life on account of injury, this Court finds that the amounts awarded by the Tribunal are reasonable and just and are not interfered with. Accordingly, the instant appeal is disposed of by interfering with the amount of Rs. 1,92,000/- and the same is quashed and set aside. However, the rest of the awarded amount is not interfered with.

**18.** The instant application is disposed of with the above findings and modifications.

**19.** The Appellant is allowed to withdraw the statutory deposit of Rs. 25,000/- (Rupees Twenty-five Thousand only). The Registry shall send back the Trial Court Records.

**20.** The Appellant shall deposit the modified award before the Registry of this Court within 6 (six) weeks from the date of this judgment. Thereafter, the Respondents/Claimants shall be allowed to withdraw the deposited amount.

**JUDGE**

**Comparing Assistant**