

GAHC010005192016



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

Case No. : MACApp. 74/2019

1:UNITED INDIA INSURANCE CO. LTD.
A PUBLIC SECTOR UNDERTAKING, HAVING ITS REGISTERED OFFICE AT
CHENNAI, REPRESENTED BY ITS REGIONAL OFFICE AT G.S. ROAD,
GUWAHATI, ASSAM-781005

VERSUS

1:SRI DEBAJIT TERON and ANR
S/O LATE CHENIRAM TERON, R/O HOSPITAL COLONY, P.S. BISWANTH
CHARIALI, DIST. SONITPUR, ASSAM.

2:HEMANTA BORAH
S/O LATE B.R. BORAH
R/O VILL. BHAKATGAON
P.S. SOOTEA
DIST. SONITPUR
ASSAM

Advocate for the Petitioner : MR S S SHARMA

Advocate for the Respondent : MR. A S DHILLON

**BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO**

ORDER

Date : 05-04-2019

Heard Mr. S. S. Sharma, learned senior counsel assisted by Mr. B. J. Mukherjee, learned counsel for the appellant.

The appellant by filing this appeal has challenged the judgment and order dated 22.12.2015 passed by the learned Member, Motor Accident Claims Tribunal, Biswanath, Chariali, Sonitpur in MAC Case No. 315/2013 whereby compensation was awarded to the respondent No. 1, the claimant despite the fact the deceased was not covered by the Insurance Policy.

Mr. S. P. Choudhury, learned counsel appearing for the respondent No. 1 submits that the ground taken by the appellant is not sustainable insomuch as the same was not their case before the Tribunal. In other words, the Insurance Company did not dispute the coverage of Insurance on the deceased in the written statement filed before the Tribunal and therefore, they are not permitted the same at this stage.

Mr. S. S. Sharma, the learned counsel, on the other hand, submits the same being purely on the question of law, Insurance Company may be

allowed to raise the same even at this stage.

Having regard to the submissions made, let the appeal be admitted without the prejudice to the rights of the respondent No. 1/claimant to object the maintainability of the appeal.

Let the LCR be requisitioned from the Tribunal concerned.

Issue notice to the respondents, returnable by 6(six) weeks since respondent No. 1 has already done by Mr. S. P. Choudhury. No formal notice be required in so far as the respondent No. 2 is concerned.

Let steps be taken for service of notice by registered post with A/D within 4(four) days.

Having regard to the submissions made for the appellant and the material available on record the impugned judgment and award dated 22.12.2015 passed in MAC Case No. 315/2013 shall remain stayed, subject to deposit 50% of the awarded amount before the Registry of this Court within a period of 6(six) weeks from today. The amount deposited shall not be disbursed without leave of this Court.

List this matter after 6(six) weeks.

JUDGE

Comparing Assistant