

GAHC010010622023



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

Case No. : MFA/10/2023

CHOLAMANDALAM MS GENERAL INSURANCE COMPANY LTD.
HAVING ITS REGISTERED OFFICE AND HEAD OFFICE AT DARE HOUSE,
2ND FLOOR, NO. 2 N.S.C. BOSE ROAD, CHENNAI- 600001 AND ITS BRANCH
OFFICE AT AASTHA PLAZA, 4TH FLOOR, OPPOSITE TO S.B. DEORAH
COLLEGE, G.S. ROAD, GUWAHATI.

VERSUS

MD BAHECHER ALI KHAN AND 3 ORS.
S/O LATE BABOR ALI,
VILL.- BIDYARDABRI PART- II,
P.O.- BIDHYARDABRI,
P.S.- GOLAKGANJ,
DIST.- DHUBRI (ASSAM), PIN- 783335.

2:SONABHANU BIBI
W/O MD BAHECHER ALI KHAN
VILL.- BIDYARDABRI PART- II
P.O.- BIDHYARDABRI
P.S.- GOLAKGANJ
DIST.- DHUBRI (ASSAM)
PIN- 783335.

3:BIREN BARMAN
S/O UPEN BARMAN
VILL.- BALAKUTHI
P.O.- BALAKUTHI
P.S.- BOXIRHAR
DIST.- COOCH BIHAR
WEST BENGAL
PIN- 736131.

4:SURJAMAL SHEIKH
S/O JOYNAL SHEIKH

VILL.- BIDHYARDABRI
P.O.- BIDHYARDABRI
P.S.- GOLAKGANJ
DIST.- DHUBRI(ASSAM)
PIN- 783335

Advocate for the Petitioner : MS. M SAIKIA

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 08.02.2023

Heard Mr. R. Goswami, learned counsel for the appellants.

By this appeal under Section 30 of the Employee's Compensation Act, 1923, the appellants have prayed for setting aside the judgment and order, dated 20.10.2022, passed by the learned Commissioner of Employee's Compensation in E.C Case No. 06/2018.

The appeal is admitted on the following substantial questions of law:

“a. Whether in the given facts where there is no evidence of employment of the victim can the Commissioner for Employees Compensation presume an employer-employee relationship between the victim and the owner of the vehicle ?

b. Whether in the given facts where the pleading and the evidence of the claimant reveals the existence of a GR Case regarding murder of the victim by the driver of the insured vehicle the Commissioner for

Employees Compensation can consider the same as a case of an employment without any reference to the judgment in the said GR Case or the status of the case ?

c. Whether the Judgment passed by the Commissioner of Employees Compensation based on a finding of employment of the deceased and the wages as Rs. 6000.00 per month on the basis of evidence of a person who is not the employer, can be said to suffer from perversity on account of a fraudulent attempt to convert the murder simpliciter of the deceased into an accident arising out of and in course of employment ?

The appellants are permitted to raise any other substantial question of law which may arise in course of hearing.

Call for the LCRs.

List this matter after **4 (four) weeks**.

JUDGE

Comparing Assistant