

GAHC010022332018



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

Case No. : MACApp. 162/2018

1:M/S UNITED INDIA INSURANCE CO. LTD
HAVING ITS REGISTERED OFFICE AT 24, WHITES ROAD ,CHNNAI - 600014
WITH ONE OF ITS REGIONAL OFFICE, AT G.S. ROAD , CHRISTIANBASTI,
GUWAHATI-5
REPRESENTED BY ITS CHIEF REGIONAL ,MANAGER.

VERSUS

1:SEI HARLAL SEN AND 5 ORS
S/O LATE PURNA CHANDRA SEN
RESIDENTS OF NEW COLONY,
BENGALI GIRLS SCHOOL ROAD,
P.O.,P.S. AND DIST .TINSUKIA -786125,
ASSAM.

2:SMTI SAMITA SEN
W/O SRI HARLAL SEN
RESIDENTS OF NEW COLONY

BENGALI GIRLS SCHOOL ROAD

P.O.
P.S. AND DIST .TINSUKIA -786125

ASSAM

5:THE NEW INDIA ASSURANCE CO .LTD
DIVISIONAL OFFICE
RANGAGORAH ROAD
TINSUKIA
P.O. AND DIST . TINSUKIA -786125
ASSAM

6:SRI NIRMALENDU CHOUDHURY

S/O NIKHIL BANDHU CHOUDHURY

R/O. KHAGESWAR ROAD
NEW COLONY

P.O.
P.S. AND DIST. TINSUKIA -786125
ASSAM(OWNER OF VEH. NO. AS -23/ C-3223

Advocate for the Petitioner : MD. A AHMED

Advocate for the Respondent : MR. K K BHATRA (R5)

Linked Case : I.A.(Civil) 789/2018

1:M/S UNITED INDIA INSURANCE CO. LTD
HAVING ITS REGISTERED OFFICE AT 24
WHITES ROAD
CHNNAI - 600014 WITH ONE OF ITS REGIONAL OFFICE
AT G.S. ROAD
CHRISTIANBASTI
GUWAHATI-5 REPRESENTED BY ITS CHIEF REGIONAL
MANAGER.

VERSUS

1:SRI HARLAL SEN AND 5 ORS
- S/O LATE PURNA CHANDRA SEN RESIDENTS OF NEW COLONY
BENGALI GIRLS SCHOOL ROAD
P.O.
P.S. AND DIST .TINSUKIA -786125
ASSAM.

2:SMTI SAMITA SEN
W/O SRI HARLAL SEN RESIDENTS OF NEW COLONY
BENGALI GIRLS SCHOOL ROAD
P.O.
P.S. AND DIST .TINSUKIA -786125
ASSAM

3:SRI DURGA PRASAD SHAH
S/O LATE S.P. SHAH

R/O . A.T. ROAD
DHEKIAJULI
P.O.P.S. AND DIST
TINSUKIA -786125
ASSAM (OWNER OF VEH. NO.AS-01/0667 (TRUCK))

4:SRI RAJESH MAHATO
S/O SRI KRISHNA MAHATO
R/O .A.T. ROAD
RAWARIPATTY ROAD
DIBUGARH P.S. AND DIST .DIBRUGARH
P.O. DIBRUGARH- 786001
ASSAM.

5:THE NEW INDIA ASSURANCE CO. LTD
DIVISIONAL OFFICE
RANGAGORAH ROAD
TINSUKIA
P.O. AND DIST . TINSUKIA -786125
ASSAM

6:SRI NIRMALENDU CHOUDHURY
S/O NIKHIL BANDHU CHOUDHURY
R/O. KHAGESWAR ROAD
NEW COLONY
P.O.
P.S. AND DIST. TINSUKIA -786125
ASSAM(OWNER OF VEH. NO. AS -23/ C-3223)

Advocate for the Petitioner : MR A HAMED
Advocate for the Respondent :

Linked Case : I.A.(Civil) 788/2018

1:M/S UNITERD INDIA INSURANCE CO LTD
HAVING ITS REGISTERED OFFICE AT 24
WHITES ROAD
CHNNAI - 600014 WITH ONE OF ITS REGIONAL OFFICE
AT G.S. ROAD
CHRISTIANBASTI
GUWAHATI-5 REPRESENTED BY ITS CHIEF REGIONAL
MANAGER.

VERSUS

1:SRI HARLAL SEN AND 5 ORS
S/O LATE PURNA CHANDRA SEN RESIDENTS OF NEW COLONY
BENGALI GIRLS SCHOOL ROAD
P.O.
P.S. AND DIST .TINSUKIA -786125
ASSAM.

2:SMTI SAMITA SEN
W/O SRI HARLAL SEN RESIDENTS OF NEW COLONY
BENGALI GIRLS SCHOOL ROAD
P.O.
P.S. AND DIST .TINSUKIA -786125
ASSAM

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R/O .A.T. ROAD
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DIBUGARH P.S. AND DIST .DIBRUGARH
P.O. DIBRUGARH- 786001
ASSAM.

5:THE NEW INDIA ASSURANCE CO. LTD
DIVISIONAL OFFICE
RANGAGORAH ROAD
TINSUKIA
P.O. AND DIST . TINSUKIA -786125
ASSAM

6:SRI NIRMALENDU CHOUDHURY
S/O NIKHIL BANDHU CHOUDHURY
R/O. KHAGESWAR ROAD
NEW COLONY
P.O.
P.S. AND DIST. TINSUKIA -786125
ASSAM(OWNER OF VEH. NO. AS -23/ C-3223)

Advocate for the Petitioner : MR A AHMED
Advocate for the Respondent : MR. K K BHATRA (R5)

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 19-07-2019

Heard Mr. A. Ahmed, learned counsel for the appellant as well as R.K Bhatra, learned counsel for the respondent No. 5.

The matter pertains to the death of claimant's son due to an accident involving 2 (two) vehicles.

The claimant initially filed a claim petition, registered as MACT Case No. 112/2011 before the Addl. Member-1, MACT, Tinsukia. The same was dismissed by the Addl. Member-1, MACT, Tinsukia, vide Judgment dated 31.03.2016. Thereafter, a review petition was apparently filed by the claimant before the Addl. Member-2, MACT, Tinsukia, for review of the earlier Judgment dated 31.03.2016. The Addl. Member-2 called for the records from the Addl. Member-1 and allowed the claim petition by awarding compensation of Rs. 6,49,000/-, to be paid in equal shares by the appellant and the respondent No. 5.

The appellant's counsel submits that the appellant was not made a party in the review petition.

The appellant's counsel also submits that once the claim petition had been dismissed by the Addl. Member-1, MACT, Tinsukia, the Tribunal became functus officio and as there is no power of review under the M.V Act, 1988, there could not have been any review of the Judgment passed by the Addl. Member-1 by the Addl. Member-2. Further, the Addl. Member-1 being in office at the relevant point of time, the Addl. Member -2, had no jurisdiction to entertain the review petition and pass the Judgment dated 21.08.2017.

Admit the appeal.

Call for the records of MACT Case No. 112/2011 and also the review petition i.e., Misc. (MAC) Case No. 4/2016 in MACT Case No. 112/2011 from the Addl. Member-2, MACT Tinsukia.

Issue notice returnable in 4 (four) weeks.

Mr. R.K Bhatra appears for respondent No. 5. Mr. P. Bargohain appears for respondent No. 2 and Mr. U. Sarma appears for respondent No. 6.

The names of respondent Nos. 3 & 4 have been struck off in I.A No. 789/2018.

The appellant to take steps for service of notice upon the respondent No. 1 by registered post with A/D along with usual process within 1 (one) week.

List the matter after 4 (four) weeks.

JUDGE

Comparing Assistant