

GAHC010067762022



2026:GAU-AS:8827

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

Case No. : I.A.(Civil)/1511/2022

NEW INDIA ASSURANCE CO. LTD.
HAVING ITS REGISTERED OFFICE AT M.G ROAD
FORT MUMBAI AND ONE OF THE REGIONAL OFFICES KNOWN AS NORTH
EAST REGIONAL OFFICE AT LACHIT NAGAR
ULUBARI
GUWAHATI 7
ASSAM

VERSUS

RINA DAS AND 4 ORS.
W/O SRI GOPAL DAS RESIDENT OF NAVARANG BYE LANE NO. 2
SASANPARA
EAST CHOWKIDINGEE
PO
PS AND DIST DIBRUGARH
ASSAM
786003

2:SRI BASANT SINGH
S/O SRI BUTA SINGH

RESIDENT OF SANT NAGAR VILLAGE
JIWAN NAGAR
PO SANT NAGAR
DIST SIRSA
TEHSIL RANIA
HARYANA
125075

3:SRI RAM LAGAN JHA

S/O BHAJEBHAN JHA
RESIDENT OF CHANDANPATTI VILLAGE (SANGAPATTI VILLAGE) PO
SAKRA
DIST MUZAFFARPUR
BIHAR
843105

4: SRI BITTU DAS
S/O SRI GOPAL DAS
RESIDENT OF NAVARANG BYE LANE NO. 2
SASANPARA
EAST CHOWKIDINGEE
PO
PS AND DIST DIBRUGARH
ASSAM
786003

5: THE BRANCH MANAGER
NATIONAL INSURANCE CO. LTD. KHEMKA MARKET
DIBRUGARH
ASSAM 786001

Advocate for : MS R GANGAWAT
Advocate for : appearing for RINA DAS AND 4 ORS.

BEFORE
HONOURABLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

19/06/2026

The present application under Order 41 Rule 27 R/W Section 151 of the CPC has been filed by the appellant/applicant praying for producing additional evidence in the form of the report of DTO, Muzaffarpur dated 03.03.2022.

2. Heard learned counsel for the appellant, Mr. R.K. Bhatra and learned counsel, Ms. A. Biyani. Also heard learned counsel, Mr. H.K. Sarma, for the respondent Nos. 1 & 4 and learned counsel, Mrs. S. Roy, for the respondent No.5.

3. The applicant herein submits that an appeal has been preferred by the appellant challenging the Judgment and Award dated 28.10.2021 passed by the learned MACT No.1, TINSUKIA, in MAC Case No.36/2017.

4. It is submitted that during the trial before the tribunal, the driving license of the driver of the offending truck bearing Registration No. HR-57-6589 was never produced. The police reports contain the driving license number. However, the authority which had issued the license was not indicated. Therefore, the applicant/appellant never had an opportunity to find out from the issuing authority regarding the validity of the driving license. It was only after the judgment was passed that the investigator found out that the driving license was shown to be issued by the DTO, Muzaffarpur. Therefore, the appellants had written to the DTO, Muzaffarpur for a verification report. As per the letter of the DTO, Muzaffarpur dated 03.03.2022, it was stated that the said driving license in the name of Shri *Ram Lagan Jha* was not issued from the office of the DTO, Muzaffarpur.

5. Learned counsel for the applicant/appellant submits that the appellant never had the opportunity to verify the license during the trial as it was not brought on record. It is also submitted that the appellant had already taken the plea that the validity of the driving license was disputed. The appellant therefore, submit that the available records during the trial did not reveal the issuing RTO and the appellant made reasonable efforts to ascertain the issuing authority but could not do so, and only later, the correct RTO/DTO was identified and a verification report was obtained showing the license to be non existent. Therefore, it is clear that the additional evidence could not have been produced before the tribunal despite due diligence. Learned Counsel further submits that the production of

the additional evidence would enable this Court to pronounce an effective judgment, and thereby, fulfilling the conditions laid down in Order 41 Rule 27 CPC.

6. Per Contra the learned counsel for the claimant/respondent submits that none of the parties had produced any driving license before the tribunal. Therefore, it is questionable as to the basis on which the investigator inquired about the license only from the DTO, Muzaffarpur and not any other DTO. It is also submitted that the investigator was appointed by the appellants after more than 100 days after the judgment and award dated 28.10.2021 was passed. Learned counsel submits that there was no due diligence on the part of the appellants since 2017 when the MAC Case No.36/2017 was filed. And at this stage, the additional evidence cannot be entertained by this Court. Learned counsel further submits that the present application is not maintainable and needs to be dismissed as an after thought.

7. Order 41 Rule 27 CPC is reproduced herein below for the sake of convenience.

“27. Production of additional evidence in Appellate Court.-(1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if-

(a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

[(aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or]

(b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause,

the Appellate Court may allow such evidence or document to be produced, or witness to be examined.

(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission."

8. The appellants herein had specifically pleaded in their written statement that it is disputed regarding the driver's possession of a valid driving license and therefore, the applicant herein is not setting up an entirely new case in the appeal. The defense was already on record. And the applicant is merely seeking to adduce additional evidence in support of that defense. In the case of ***Union of India Vs. Ibrahim Uddin*** reported in ***(2012) 8 SCC 148***, the Hon'ble supreme Court held that additional evidence can be admitted only when the court itself requires it to pronounce judgment or when a party was prevented from producing it earlier for valid reasons. Mere inadvertence or strategic omission is insignificant.

9. In the instant case this Court has observed that the driving license was never produced before the tribunal and in spite of efforts made during the trial, the issuing authority could not be ascertained. Only at the later stage the correct DTO was subsequently identified and the verification report became available after the award dated 28.10.2021 was passed. In a motor accident case, the appellate court has to adopt a liberal approach where the additional evidence pertains to a statutory defense under Section 149 of the Motor Vehicles Act and when its consideration may materially affect the insurer's liability. It is also the view of this Court that the admission of the additional evidence with regard to

the non existence of the driving license would enable this Court to arrive at a just and proper finding.

10. In view of the above fact and circumstances, the instant application is allowed. And the copy of the verification report from the DTO, Muzaffarpur dated 03.03.2022 with regard to the driving license No.4164/08F of the driver of offending vehicle No. HR-57-6589 as well as the copy of the Insurance Policy No. 35370331160100000098 issued to the owner of vehicle No.HR-57-6589 is allowed to be produced as additional evidence in the connected MAC Appeal No. 276/2022.

11. The I.A stands disposed.

JUDGE

Comparing Assistant