2026:GAU-AS:2731

THE GAUHATI HIGH COURT

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

Writ Petition (C) no. 2950/2024

Ratul Borgohain, S/o- Late Kirti Chandra Borgohain, R/o- Village – Ward No. 1, Chandrapur, Bokajan, P.O./P.S. Bokajan, District – Karbi Anglong, Assam, Pin – 782480.

………………Petitioner

-**Versus**-

1. Office of the Insurance Ombudsman, Guwahati, Represented by Insurance Ombudsman, Jeevan Nivesh, 5th Floor, near Panbazar Over Bridge, S.S. Road, P.O. Panbazar, Guwahati – 781001, Kamrup [M], Assam.
2. The Cholamandalam MS General Insurance Company Ltd., Represented by its Managing Director, Having its registered Head Office at 2nd Floor, Dare House No – 2, NSC Bose Road, Chennai – 600001, India.
3. The Managing Director, Cholamandalam MS General Insurance Company Ltd., 2nd Floor, Dare House No – 2, NSC Bose Road, Chennai – 600001, India.
4. The Claim Manager, Cholamandalam MS General Insurance Company Ltd., 2nd Floor, Dare House No – 2, NSC Bose Road, Chennai – 600001, India.

5. The Branch Manager, Guwahati Branch Office, Cholamandalam MS General Insurance Company Ltd., Aastha Plaza, 7th Floor, G.S. Road, Opposite S.B. Deorah College, Ulubari, P.O. Ulubari, Guwahati – 781007, Kamrup [M], Assam.
6. Insurance Regulatory and Development Authority of India, Represented by its Chairman, having its Registered Office at SY No. 115/1, Financial District – Nanakramguda, Gachibowli, Hyderabad – 5003.

………………**Respondents**

Advocates :

Petitioner : Ms H. Khatun, Advocate
Mr. I.H. Mazarbhuiya, Advocate

Respondent nos. 2, 3, 4, 5 & 8: Mr. R. Goswami, Advocate

Respondent no. 6 : Mr. S. Dutta, Senior Advocate

Date on which judgment is reserved : NA

Date of pronouncement of Judgment : 19.02.2026

Whether the pronouncement is of the operative part of the judgment ? : No

Whether the full judgment has been pronounced ? : Yes

BEFORE

HON'BLE MR. JUSTICE MANISH CHOUDHURY

JUDGMENT & ORDER

Invoking the extra-ordinary and discretionary jurisdiction under Article 226 of the Constitution of India, assail is made in this writ petition to an Award dated 31.03.2023 passed by the Insurance Ombudsman, Guwahati as well as to an Order dated 10.01.2023 passed by the respondent Chola MS General Insurance Company Limited.

2. By the Order dated 10.01.2023, the respondent Chola MS General Insurance Company Limited [hereinafter also referred to as 'the Insurer', at places, for easy reference] as the Insurer had repudiated a claim submitted by the petitioner as the Insured allegedly on the ground of deliberate and wilful misrepresentation on the part of the petitioner-Insured. By the Award dated 31.03.2023, the Insurance Ombudsman had treated the complaint lodged by the petitioner-Insured against the claim repudiation as 'closed'.

3. The background facts which are necessary and relevant for adjudication of the issues raised and involved in the writ petition can be exposited, briefly, at first.

4. The petitioner is the registered owner of a vehicle, TATA Ultra LPT 1518 [Truck] bearing Registration no. AS-09/AC-7560 [hereinafter referred to as 'the subject-vehicle', at places, for easy reference]. As per the Certificate of Registration issued by the District Transport Office, Karbi Anglong, Diphu, the subject-vehicle was registered on 28.02.2019. The subject-vehicle was covered by an Insurance Policy no. 3379/02289807/000/03 for the period from 15.02.2022 to 14.02.2023 issued by the respondent-Insurer upon payment of an insurance premium of Rs. 53,278/-. The premium amount included premium for own damage claim to the extent of Rs. 19,07,970/-.

The subject-vehicle was issued a Certificate of Fitness issued by the District Transport Office, Karbi Anglong, Diphu as a Transport Vehicle [Goods Carrier] for the period from 11.10.2021 to 10.10.2023. The subject-vehicle was also issued a Public Carrier's Permit having validity from 28.02.2019 to 27.02.2024.

5. It is stated that on 26.10.2022, the subject-vehicle met with an accident at Dhodar Ali Road, near ASTC Bus Stand, Amguri, District – Sivasagar when it was proceeding from Namti side towards Amguri Town side. As per the petitioner, the subject-vehicle, at the time of the accident was loaded with rice and was driven by the petitioner himself. The accident was due to a collision with a Trailer bearing Registration no. RJ-09/GD-7194. As a result of the collision, extensive damage was caused to the front-side of the subject-vehicle. Certain damage was also caused to the back-end of the Trailer. The petitioner had claimed that he had also sustained injuries on his person. In connection with the accident, a General Diary Entry vide G.D. Entry no. 576 was registered on 26.10.2022 itself at Amguri Police Station.

6. After causing an enquiry, the Officer In-Charge, Amguri Police Station submitted a Police Report on 07.12.2022. As per the Police Report, annexed as Annexure-5 to the writ petition, due to the collision, the front of the subject-vehicle sustained extensive damage and the Trailer was damaged in the back-end. In the course of enquiry, both the vehicles were seized at the spot and thereafter, were taken to and kept at the Police Station. The vehicles were examined by a Motor Vehicle Inspector [MVI] from the District Transport Office, Sivasagar. In the Report submitted by the MVI, the damage found in the subject-vehicle was recorded. In the Police Report, it was reported that during the course of enquiry it was found that the accident had occurred due to the congested nature of the road and the sudden movement of the Trailer head. As a result, the back-end of the Trailer came outside and it was at that point of time, the subject-vehicle

[Truck] reached the place of occurrence and hit the back-end of the Trailer. The Police Report was filed terming the incident as accidental.

7. The petitioner has claimed that as he himself was driving the subject-vehicle at the time of the accident, he received a number of injuries on his person. Apart from the petitioner, there was a handyman inside the subject-vehicle at the time of the accident and the handyman also sustained injuries due to the accident. Due to the extensive damages, the subject-vehicle was placed in a servicing workshop named M/s Auto Axis Pvt. Ltd., Jorhat and after examining the subject-vehicle, the workshop prepared a Job Card dated 12.12.2022 with a preliminary estimate of Rs. 19,96,148/- for repairing. For the injuries sustained, the petitioner had to take medical treatment. As per the medical advice, he was under treatment during the subsequent period.

8. After receipt of the preliminary estimate, the petitioner-Insured lodged a claim with the respondent-Insurer towards own damage for the subject-vehicle and the said claim was registered as Claim no. 3379379921. The respondent-Insurer after consideration of the claim and the documents submitted by the petitioner-Insured, had repudiated the claim on 10.01.2023 on the ground that there was deliberate and wilful misrepresentation on the part of the petitioner-Insured regarding the driver at the material time of the accident. It was observed that such deliberate and wilful misrepresentation had rendered the declaration false and amounted to serious breach of the policy conditions as well as the principle of utmost good faith.

9. Aggrieved by repudiation of the claim in such manner, the petitioner-Insured lodged a complaint before the Insurance Ombudsman on 21.02.2023. The complaint was registered as Complaint Ref. no. GUW-G-012-2223-0167 under Rule 13[1][b] of the Insurance Ombudsman Rules, 2017. The complainant and the authorized representative of the

respondent-Insurer were heard on 30.03.2023. After taking into consideration the contentions of the complainant, that is, the petitioner-Insured and the respondent-Insurer, the Insurance Ombudsman passed the impugned Award, that is, Award no. IO/GUW/A/GI/0137/2022-2023 on 31.03.2023 observing inter alia that the issues raised by the contesting parties are criminal in nature and beyond the authority of the forum to adjudicate. The Award has further observed that the matter might be raised with the appropriate judicial authority and therefore, the forum of Insurance Ombudsman has refrained from passing any order on the matter. Observing so, the complaint has been treated as 'closed'.

10. Aggrieved by and dissatisfied with the Award dated 31.03.2023 and the repudiation of the claim, the petitioner has instituted the present writ petition.

11. I have heard Ms. H. Khatun, learned counsel for the petitioner with Mr. I.H. Mazarbhuiyan, learned counsel for the petitioner; Mr. R. Goswami, learned counsel for the respondent nos. 2 – 5; and Mr. S. Dutta, learned Senior Counsel assisted by Mr. S. Dutta, learned counsel for the respondent no. 6.

12. Ms. Khatun, learned counsel for the petitioner has submitted that the Insurance Ombudsman had taken into consideration a video recording, produced by the respondent-Insurer, as evidence. The video recording purportedly contained a discussion between the petitioner-Insured and an Investigator appointed by the respondent-Insurer. As per the video recording, the involvement of the petitioner-Insurer as the driver of the subject-vehicle in the accident was doubtful. The learned counsel for the petitioner has contended that the Insurance Ombudsman had got influenced by the video recording produced by the respondent-Insurer and it was the main reason for closure of the complaint. Without ascertaining the genuineness of the video recording, which was without any certificate, the

Insurance Ombudsman has taken it as a valid piece of evidence and has, thereafter, proceeded to observe that the evidence provided in the video recording is contradictory to the claim of the petitioner-Insured. The forum has misconceivably observed that the matter would pertain to criminal jurisprudence and is beyond the authority of the forum of Ombudsman for adjudication. It has been contended that the Insurance Ombudsman had misdirected himself to accept an inadmissible piece of evidence as a valid piece of evidence and had, thereby, wrongly reached a conclusion that the matter would pertain to criminal jurisprudence. It is further contended the respondent-Insurer also repudiated the claim arbitrarily on the same ground. The learned counsel for the petitioner has, thus, submitted that both the Award and the Order cannot stand the scrutiny of law and are liable to be set aside.

13. Mr. Goswami, learned counsel appearing for the respondent nos. 2 – 5 has supported the reasons assigned by the Insurance Ombudsman in closing the complaint. He has contended that the issues raised by the petitioner-Insured with regard to repudiation of the claim and seriously opposed by the respondent-Insurer would require factual determination as it involves disputed questions of facts. The Insurer had appointed a surveyor for inspection and assessment of loss and the surveyor submitted a report assessing the alleged loss at Rs. 10,00,000/-. Thus, the claim of the petitioner-Insured for Rs. 19,96,148/- is a disputed one. As the video recording contains evidence contrary to the claim of the petitioner-Insured, the decision taken by the Insurance Ombudsman to close the complaint calls for no interference. Projecting that since disputed questions of facts are involved, Mr. Goswami has contended that it would not be proper for this Court to embark on any fact-finding enquiry for determination of factual disputes. Further, the present writ petition filed for enforcement of contractual rights and obligations involving disputed questions of facts is not

to be entertained and for such dispute requiring an enquiry into facts, a proceeding under Article 226 of the Constitution is not appropriate.

14. Mr. Dutta, learned Senior Counsel appearing for the respondent no. 6 has submitted that the respondent no. 6 being a statutory body, does not have any role in a dispute concerning an Insurance Policy taken for coverage of the subject-vehicle or a claim for own damage under an Insurance Policy and repudiation of the claim by the respondent-Insurer. Mr. Dutta has further submitted that as the adjudication of the claim of the petitioner-Insured and the respondent-Insurer would require factual determination, the petitioner-Insured ought to have approached the Consumer Forum, which permit leading of evidence by both the parties. Not having raised such issues involving determination of facts before an appropriate forum of competent jurisdiction, it is not open and proper on the part of the petitioner-Insured to urge for determination of raise such issues in a writ petition and therefore, the writ petition deserves to be dismissed.

15. I have given due consideration to the submissions advanced by the learned counsel for the parties and have also taken into consideration the materials brought on record. I have also perused the impugned Award dated 31.03.2023 and the Order dated 10.01.2023 repudiating the claim.

16. The Insurance Ombudsman is constituted under the Insurance Ombudsman Rules, 2017 [‘the Rules, 2017’ or ‘the 2017 Rules’, for short], made in exercise of the powers conferred by Section 24 of the Insurance Regulatory and Development Authority [IRDA] Act, 1999. As per definition provided by Section 4[1][a], ‘Award’ means an award passed by the Insurance Ombudsman under the Rules, 2017. The duties and functions of Insurance Ombudsman are outlined in Rule 13. The Insurance Ombudsman shall inter alia receive and consider complaints alleging deficiency and performance required of an Insurer in case of any partial or total repudiation of claims by

the life insurer, general insurer or the health insurer. The manner in which a complaint is to be made is laid down in Rule 14. Any person who has a grievance against an Insurer can make a complaint in writing to the jurisdictional Insurance Ombudsman.

17. Rule 15 of the 2017 Rules contains a mandate for the Insurance Ombudsman to act fairly and equitably. The Insurance Ombudsman has been provided with the power to ask the parties concerned, for additional documents in support of their respective contentions and wherever considered necessary, collect factual information relating to the dispute available with the Insurer and may make available such information to the parties concerned. The Insurance Ombudsman is required to dispose of a complaint after giving the parties to the dispute a reasonable opportunity of being heard. Rule 16 has provided that where a complaint is settled through mediation, the Insurance Ombudsman shall make a recommendation which it thinks fair in the circumstances of the case, to send it to the parties concerned. If the recommendation is acceptable to the complainant, the recommendation is, thereafter, to be sent to the Insurer for compliance.

18. Rule 17 has provided for the Award. For ready reference, Rule 17 is quoted hereinbelow :-

> **17. Award**. —
>
> [1] Where the complaint is not settled by way of mediation under Rule 16, the Ombudsman shall pass an award, based on the pleadings and evidence brought on record.
>
> [2] The award shall be in writing and shall state the reasons upon which the award is based.
>
> [3] Where the award is in favour of the complainant, it shall state the amount of compensation granted to the complainant after deducting the amount already paid, if any, from the award :

> Provided that the Ombudsman shall,— [i] not award any compensation in excess of the loss suffered by the complainant as a direct consequence of the cause of action; or [ii] not award compensation exceeding rupees thirty lakhs including relevant expenses, if any.
>
> [4] The Ombudsman shall finalise its findings and pass an award within a period of three months of the receipt of all requirements from the complainant.
>
> [5] A copy of the award shall be sent to the complainant and the insurer or the insurance broker, as the case may be, named in the complaint.
>
> [6] The insurer or the insurance broker, as the case may be, shall comply with the award within thirty days of the receipt of the award and intimate compliance of the same to the Ombudsman and upload the details in the complaints management system.
>
> [7] The complainant shall be entitled to such interest at a rate per annum as specified in the regulations, framed under the Insurance Regulatory and Development Authority of India Act, 1999, from the date the claim ought to have been settled under the regulations, till the date of payment of the amount awarded by the Ombudsman.
>
> [8] The award of Insurance Ombudsman shall be binding on the insurers or the insurance broker, as the case may be.

19. The Insurance Ombudsman is a statutory authority which has been vested with the power, authority and jurisdiction to adjudicate a complaint fulfilling the conditions laid down Rule 13 of the Rules, 2017. The Rules, 2017 enjoin a duty to the Insurance Ombudsman to act fairly and equitably. After notifying the parties to the dispute, the Insurance Ombudsman has power to ask the parties concerned for additional documents in support of their respective contentions and wherever considered necessary, to collect factual information relating to the dispute available with the Insurer and may make available such information to the parties concerned. If a complaint cannot be settled by way of mediation, the Insurance Ombudsman can proceed to pass an Award, based on the pleadings and evidence brought on record and

in passing the Award, an obligation is cast upon the Insurance Ombudsman to state the reasons upon which the Award is based. In so far as the Insurers are concerned, the Award of the Insurance Ombudsman shall be binding on them.

20. It is well settled that if law requires that an authority before arriving at a decision in a dispute, must make an enquiry, such a requirement of law makes the authority a quasi-judicial authority. The foremost requirement in quasi-judicial jurisdiction is the observance of the principles of natural justice which require giving reasons for the conclusions arrived at. Recording of reasons in its decision to decide a dispute is an indispensable requisite for a quasi-judicial authority. Three requisites must be fulfilled by an authority to hold the authority as a quasi-judicial authority and they are that the authority - [i] must have legal authority; [ii] to determine questions effecting the rights of parties; and [iii] must have the duty to act judicially. In ***Indian National Congress [I] vs. Institute of Social Welfare, [2002] 5 SCC 685***, it has been held that the presence of a lis or contest between the contending parties before a statutory authority, in the absence of any other attributes of a quasi-judicial authority is sufficient to hold that such a statutory authority is a quasi-judicial authority. What distinguishes an administrative act from a quasi-judicial act is that in the case of quasi-judicial function under the relevant law the statutory authority is required to act judicially. To act judicially means to comply with the principles of natural justice. Where law requires that an authority before arriving at a decision must make an inquiry, such a requirement of law makes the authority a quasi-judicial authority. When these attributes of a quasi-judicial authority are considered then it is evidently clear that the Insurance Ombudsman in adjudicating a complaint exercises quasi-judicial jurisdiction.

21. The writ petitioner has impleaded the Insurance Ombudsman as party-respondent no. 1. A quasi-judicial authority is not to be impleaded in a writ

petition preferred against an Award passed solely in exercise of its adjudicatory function.

22. Turning back to the facts of the case, it can be noticed that the Insurer had appointed an Investigator to investigate into the incident of accident and the Investigator submitted a Report on 03.12.2022 reporting that at the time of the accident, one handyman named Adison Bonrang was driving the subject-vehicle. It was on the basis of the Investigator's Report, the claim was repudiated on 10.01.2023 for the reason that there had been a deliberate and wilful misrepresentation on the part of the petitioner-Insured regarding the driver at the material time of accident. It was contended before the Insurance Ombudsman that the subject-vehicle was found damaged extensively from the driver side and the driver should have been grievously injured. But the projected driver, that is, the petitioner-Insured was found completely safe and the handyman Adison Bonrang was grievously injured.

23. Before the Insurance Ombudsman, the respondent-Insurer produced a piece of video recording to contend that in the video recording, the petitioner-Insured was found making statement admitting that on the date of the accident, the subject-vehicle was being driven by the handyman alone and he was not present at the time of the accident.

24. In its 'Observations and Conclusions', the Insurance Ombudsman took notice of the Insurance Policy and the IDV coverage; Amguri Police Station General Diary Entry no. 576 dated 26.10.2022 recording the fact of the subject-vehicle meeting a road traffic accident on 26.10.2022 in a loaded condition and the extensive damage caused to it; and the Report dated 29.11.2022 of the MVI confirming the accident and the damage caused to the subject-vehicle. The Insurance Ombudsman had also taken note of the repair estimate of the workshop submitted on 12.12.2022 for Rs.

19,96,148/- and the repudiation of the claim by the Insurer on 10.01.2023 on the ground of misrepresentation. It took note of the contention of the petitioner-Insured that the Police Report dated 07.12.2022 and the MVI Report dated 29.11.2022 had confirmed him as the owner-cum-driver of the subject-vehicle at the material time of the accident and he possessed a valid driving license.

25. The Insurance Ombudsman had, however, referred to the video recording produced before him by the representative of the respondent-Insurer. After examining the video recording, the Insurance Ombudsman had found that the petitioner-Insured did not confirm the name of the driver at the material time of the accident and the petitioner-Insured was found making a statement to the effect that he had reached the accident site on the day after the accident. Based on such observation, the Insurance Ombudsman proceeded to hold that in such situation, the petitioner-Insured could not have been driving the subject-vehicle at the time of the accident. The Insurance Ombudsman had taken note that the Police Report had confirmed the name of the driver at the material time of accident and the person was having a valid driving license. Holding that the evidence produced in the video recording of the enquiry with the petitioner-Insured was contradictory and such matters, as pertaining to criminal jurisprudence, were beyond his authority to adjudicate.

26. After such 'Observations and Conclusions', the Insurance Ombudsman proceeded to pass the Award. Stating that after having gone through the submitted documents and hearing the submissions made by the contesting parties, the Insurance Ombudsman stated to have reached a view that the issues raised by the contesting parties are criminal in nature and hence, beyond its authority to adjudicate. Observing that the matter could be raised with the appropriate judicial authority and refraining from passing

any order on the complaint, the Insurance Ombudsman by its Award, has treated the complaint as closed.

27. The piece of video recording produced by the respondent-Insurer before the Insurance Ombudsman is a piece of electronic record. It is not known from what source the piece of video recording originated from. Whether it was original information or a copy made therefrom is also not known. From the Award it is not disclosed that the piece of video recording was produced along with a certificate under Section 65B of the Evidence Act. When a query is made by the court as to whether the piece of video recording was accompanied by a certificate under Section 65B of the Evidence Act, the query has not been answered in the affirmative.

28. Section 65B[1] of Indian Evidence Act, 1872 had laid down that any information contained in an electronic record which was printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer shall be deemed to be also a document, if the conditions mentioned in the Section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or any contents of the original or of any fact stated therein of which direct evidence would be admissible. Section 65B[2] had set forth the conditions for treating the electronic records as documents. Section 65B[4] had prescribed that in any proceedings where it was desired to give a statement in evidence by virtue of the Section, a Certificate doing any of the following things, that is to say,- [a] identifying the electronic record containing the statement and describing the manner in which it was produced; [b] giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer; [c] dealing with any of the matters to which the conditions mentioned in sub-section [2] relate and purporting to be signed

by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities [whichever is appropriate] shall be evidence of any matter stated in the Certificate; and for the purposes of sub-section [4], it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

29. The provisions of Section 65B came to be considered by the Supreme Court of India in **Anvar P.V. vs. P.K. Basheer, [2014] 10 SCC 473.** The Hon'ble Court has observed as under :-

> 14. Any documentary evidence by way of an electronic record under the Evidence Act, in view of Sections 59 and 65-A, can be proved only in accordance with the procedure prescribed under Section 65B. Section 65B deals with the admissibility of the electronic record. The purpose of these provisions is to sanctify secondary evidence in electronic form, generated by a computer.

30. There are risks associated with acceptance of any electronic record without a certificate under Section 65B. Emphasizing on the said aspect, the Supreme Court of India in **Anvar P.V.** [supra] has observed in the following manner :-

> 16. … Most importantly, such a certificate must accompany the electronic record like computer printout, compact disc [CD], video compact disc [VCD], pen drive, etc., pertaining to which a statement is sought to be given in evidence, when the same is produced in evidence. All these safeguards are taken to ensure the source and authenticity, which are the two hallmarks pertaining to electronic record sought to be used as evidence. Electronic records being more susceptible to tampering, alteration, transposition,

excision, etc., without such safeguards, the whole trial based on proof of electronic records can lead to travesty of justice.

31. It is true that quasi-judicial authorities are not bound by the strict rules of evidence and procedure which are applicable to the courts of law exercising purely judicial function. But, at the same time, they are required to adhere to the fundamental principles of natural justice and to maintain the minimum standards of fairness, rooted in reasonableness. Though the strict rules of evidence are not to be followed by the quasi-judicial authorities it is, at the same time, not open for the quasi-judicial authorities to act on materials which are inadmissible. The quasi-judicial authorities must base its findings on evidence which are acceptable by the yardstick of a reasonable person as having probative value. A piece of video recording, if it is sought to be produced as secondary evidence, is not to be read as evidence even by quasi-judicial authorities if it is not accompanied by a certificate under Section 65B to establish a sense of genuineness and authenticity for the reason that without such a certificate, it is inadmissible. Moreover, it is susceptible to tampering, alteration, transposition, excision, etc., as observed in the afore-quoted paragraph from **Anvar P.V.** [supra]. If its decision is based on inadmissible evidence, then such a decision would constitute a material error of law being apparent on the face of the record.

32. A writ of certiorari is a supervisory jurisdiction and the court exercising it is not entitled to act as an appellate court. Therefore, there is restriction in that findings of fact reached by a quasi-judicial authority after appreciation of evidence cannot be reappreciated to reach at a different finding by the court in the writ jurisdiction. An error of law which is apparent on the face of the record can obviously be corrected by the writ court, but not an error of fact however grave it may appear to be. In regard to a finding of fact recorded by a quasi-judicial authority, a writ of certiorari can be issued only if it is found that in recording the finding, the quasi-judicial authority has

erroneously refused to admit admissible and material evidence, or has erroneously admitted inadmissible evidence which has influenced the impugned finding. Furthermore, if a finding of fact is based on no evidence, then the same would be an error of law which can be corrected by writ of certiorari. But a finding of fact recorded by the quasi-judicial authority is not to be interfered with in the certiorari jurisdiction on the ground that the relevant and material evidence adduced before the quasi-judicial authority was insufficient or inadequate to sustain the finding. A finding of fact reached by a quasi-judicial authority on the basis of evidence laid before it cannot be interfered with in the certiorari jurisdiction on the ground of inadequacy or insufficiency of evidence and a party cannot agitate against such a finding of fact before the writ court.

33. In view of the afore-stated position, this Court is of the considered view that if a quasi-judicial authority like an Insurance Ombudsman takes into consideration evidence of inadmissible nature which should not have been taken into consideration, and based on such inadmissible evidence, it has allowed its decision to be influenced, then such a decision becomes unsustainable. In the case in hand, the piece of video recording, without a certificate under Section 65B, is an inadmissible piece of evidence. From the impugned Award dated 31.03.2023 of the Insurance Ombudsman, it is evidently clear that it has based its entire decision on the piece of video recording and getting fully influenced by it, it has proceeded to hold the view that the issues would pertain to criminal jurisprudence and hence, are beyond his quasi-judicial jurisdiction to adjudicate. This Court is of the unhesitant view that based on an inadmissible piece of evidence, no quasi-judicial authority entrusted with duties to act and adjudicate fairly, equitably and judicially could have reached such a decision.

34. In the light of the discussion made above and for the reasons assigned, the impugned Award no. IO/GUW/A/GI/0137/2022-2023 dated 31.03.2023 by

the Insurance Ombudsman, Guwahati in Complaint Ref. no. GUW-G-012-2223-0167 is found unsustainable in law and therefore, the same is liable to be set aside. It is accordingly set aside.

35. With the setting aside of the Award dated 31.03.2023, the proceedings of Complaint Ref. no. GUW-G-012-2223-0167 shall stand restored to the file of the Insurance Ombudsman, Guwahati. Since the petitioner-Insured and the respondent nos. 2 to 5-Insurers in the present writ petition are the complainants and the respondents in Complaint Ref. no. GUW-G-012-2223-0167 before the Insurance Ombudsman, Guwahati, no further notice is necessary for their appearance before the Insurance Ombudsman, Guwahati.

36. In view of the direction for restoration of Complaint Ref. no. GUW-G-012-2223-0167 in the file of the Insurance Ombudsman, Guwahati, the parties shall now appear before the Office of the Insurance Ombudsman, Guwahati on 09.03.2026 for taking further part in the proceeding. The petitioner will submit a certified copy of this Order before the Insurance Ombudsman, Guwahati on or before 09.03.2026.

37. Upon appearance of the parties, the Insurance Ombudsman, Guwahati shall proceed to decide the complaint from the stage of hearing submissions of the parties and to pass an Award accordingly. As the Order dated 10.01.2023 regarding claim repudiation is the subject-matter of Complaint Ref. no. GUW-G-012-2223-0167 and the same would require determination of factual disputes, this Court has refrained itself from making any observation as regards the merits of the claim and the counter-claim of the parties and therefore, the matter of claim repudiation would abide solely by the Award to be passed by the Insurance Ombudsman.

38. Non-production of a certificate under Section 65B of the Evidence Act on an earlier occasion is a curable defect and the defect can be cured at a subsequent stage also by producing the certificate under Section 65B of the Evidence Act. During the proceeding before the Insurance Ombudsman, as directed above, it would be open to the Insurer to produce the certificate under Section 65B.

39. With the observations made and directions given above, the writ petition is allowed to the extent indicated. There shall, however, be no order as to cost.

Digitally signed by Ananta Konwar
Date: 2026.02.23 19:41:08 +05'30'

JUDGE

Comparing Assistant