

GAHC010124392020



2026:GAU-AS:577

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

Case No. : MACApp./223/2020

ORIENTAL INSURANCE COMPANY LIMITED
A COMPANY REGISTERED AND INCORPORATED UNDER THE COMPANIES
ACT, 1956, HAVING ITS REGISTERED OFFICE AT ORIENTAL HOUSE, A-25/27
ASAF ALI ROAD, NEW DELHI-2 WITH ONE OF ITS REGIONAL OFFICE AT
G.S. ROAD, ULUBARI, GUWAHATI-7, REP. BY ITS REGIONAL MANAGER.

VERSUS

BHANITA RABHA AND 3 ORS.
W/O- LATE SAMAR RABHA, R/O- VILL.- 2 NO. SAKATI, P.O. AND P.S. BOKO,
DIST.- KAMRUP, ASSAM, PIN- 781123.

2:KUKHILOBO RABHA
S/O- LATE SAMAR RABHA
R/O- VILL.- 2 NO. SAKATI
P.O. AND P.S. BOKO
DIST.- KAMRUP
ASSAM
PIN- 781123.

3:SMTI. GUNGUN RABHA
D/O- LATE SAMAR RABHA
R/O- VILL.- 2 NO. SAKATI
P.O. AND P.S. BOKO
DIST.- KAMRUP
ASSAM
PIN- 781123. (THE RESPONDENTS NO. 2 AND R3 ARE THE MINOR SON AND
DAUGHTER AND THEY ARE REP. BY THEIR MOTHER
THE RESPONDENT NO. 1.)

4:RITU PARNA PHUKAN
S/O- LATE AMULYA KUMAR PHUKAN

R/O- VILL.- MILON NAGAR
P.O. AND P.S.- NAHARKATIA
DIST.- DIBRUGARH
ASSAM
PIN- 786610

Advocate for the Petitioner : MR. R C PAUL, MS M BHARATI

Advocate for the Respondent : MR H DAS, MR. P K GOGOI (r-4)

:: BEFORE ::

(HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA)

Advocate(s) for the Appellants : Mr. R.C. Paul,
Advocate.

Advocate(s) for the Respondent(s) : Mr. H. Das,
Advocate.

Date on which judgment is reserved : 13.11.2025.

Date of pronouncement of judgment : 20.01.2026.

Whether the pronouncement is of the
operative part of the judgment? : YES.

Whether the full judgment has been
pronounced? : YES.

JUDGMENT AND ORDER (CAV)

Heard Mr. R.C. Paul, the learned counsel representing the appellant Insurance Company as well as Mr. H. Das, the learned counsel appearing for the respondents.

2. This is an appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment dated 15.06.2020 passed by the learned Member, Motor Accident Claims Tribunal , Goalpara in MAC Case No.344/2016.

3. On 08.01.2016 at about 3.30 P.M., the deceased Samar Rabha was travelling as a passenger in a Maruti Car bearing Registration No.AS-06-C-1226. The car was driven by Shri Ritu Parna Phukan. When the car reached Nobilabori under Matia Police Station, it met with an accident. Samar Rabha sustained serious injuries. He was taken to Dudhnoi Civil Hospital, where he succumbed to his injuries. Upon the accident, police registered the Matia P.S. Case No.08/2016. The deceased Samar Rabha was 35 years old and was earning an amount of ₹15,000/- per month.
4. The Insurance Company had contested the case by filing a written statement. The driver Ritu Parna Phukan also contested the case by filing written statement. He claimed that the accident took place not because of his rash and negligent driving. He further claimed that it was an unfortunate incident which was beyond his control. According to Ritu Parna Phukan, his vehicle was insured with Oriental Insurance Company Limited.
5. On the basis of the pleadings, the following issues were framed:
 - i. Whether Samar Rabha died as a result of injuries sustained by him in the alleged motor vehicle accident on dated 08.01.2016 involving vehicle bearing Registration No.AS-06-C-1226 (Maruti 800) and whether the said accident had taken place due to rash and negligent driving of the aforesaid offending vehicle?
 - ii. Whether the claimants' side is entitled to any compensation, aid if yes, to what extent and by whom amongst the opposite parties, the said compensation amount will be payable?
6. At the time of hearing, the claimant and the Insurance Company examined one witness each. On the basis of the evidence on record, the Tribunal awarded a compensation amount of ₹15,83,600/-.
7. Aggrieved by the aforesaid judgment, the appellant Insurance Company has filed the present appeal.
8. The only plea taken in this appeal is that the Insurance Policy of the Maruti Car bearing Registration No.AS-06-C-1226 had a "private car liability only policy-Zone-B" and according to this policy, the owner of the vehicle was not entitled to carry any passengers in the vehicle. According to the appellant, since the deceased Samar Rabha was admittedly a passenger in the said vehicle and since the owner of the car was not entitled to carry any passenger in the vehicle, the deceased was not entitled to any compensation.
9. I have considered the submissions made by the learned counsel of both sides.
10. I have gone through the evidence adduced by the Insurance Company before the Tribunal.
11. The only witness examined by the Insurance Company had stated before the Tribunal that since the vehicle had a "private car liability only policy Zone-B", the said vehicle cannot be used for carrying passengers in lieu of money. By making this statement the Insurance Company has claimed that the deceased Samar Rabha had hired the said Maruti Car by paying money. In his cross-examination, the witness Suprakash Das has stated that the Insurance Company did not try to find out on what capacity, the deceased Samar Rabha was travelling in the said Maruti Car.
12. So, the evidence clearly shows that the Insurance Company has failed to prove that the deceased Samar Rabha had hired the vehicle of Ritu Parna Phukan by paying money. In other words, the Insurance Company has failed to prove that Ritu Parna Phukan was using his vehicle for commercial purpose.
13. Under the aforesaid circumstances, this appeal fails and dismissed accordingly. The judgment passed by the Tribunal is affirmed.

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JUDGE

Comparing Assistant