

GAHC010144072017



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

Case No. : MACApp. 488/2017

1:UNITED INDIA INSURANCE CO. LTD.
HAVING ITS REGISTERED OFFICE and HEAD OFFICE AT 24 WHITES ROAD,
CHENNAIA AND ITS REGIONAL OFFICE AT G.S. ROAD, DISPUR,
GUWAHATI.

VERSUS

1:SANJAY DAS and 2 ORS,
S/O SRI NEPAL DAS, R/O KAULY CHANDARPUR, PS. TAMULPUR, DIST.
BAKSA, BTAD, ASSAM, PIN CODE 781367

2:HARI DEV DAS
S/O LATE GAJEN DAS
R/O RANGIA TOWN
WARD NO. 6
P.S. RANGIA
DIST. KAMRUP R
ASSAM
PIN CODE 781354

3:KRISHNA NATH
S/O LATE NANDA NATH
R/O VILL. BANIGAON
P.S. TAMULPUR
DIST. NALBARI
PIN 78136

Advocate for the Petitioner : MS.M SAIKIA

Advocate for the Respondent : MR. A LAL

**BEFORE
HONOURABLE MRS. JUSTICE RUMI KUMARI PHUKAN**

ORDER

Date : 27-09-2018

Heard Mr R Goswami, learned counsel for appellant and Mr A Lal, learned counsel for respondent no.1/claimant.

Notices sent to respondent no.2 and 3 have been returned un-served. Appellant is permitted to take fresh steps by paper publication.

Learned counsel for claimant submits that the claimant may be permitted to withdraw the Rs 3 lakh deposited with the registry by the appellant at the time of admission of the appeal and the appellant may be directed to deposit the remaining amount.

Learned counsel for appellant resisted the prayer submitting that the policy was not effective from the date of accident but after two days of the accident.

Learned counsel for respondent no.1 submits that the appellant has admitted in the evidence to have received premium on the date of the accident(6.5.2008) but peculiarly the policy was issued on 8.5.2008. He referred to the decision of Apex Court in Oriental Insurance Company Ltd v. Dharam Chand and others reported in (2010) SEJ 2659 to say that insurance

policy is deemed to have covered the period from the date of receiving premium even if the insurer raises an issue over the date of the policy.

Let the claimant be redressed at this stage and the liability be assessed at a later stage of hearing. Accordingly the claimant is allowed to withdraw the Rs 3 lakh deposited with the registry by the insurer on execution of bond that in case of liability of the owner is proved the same will be recovered from the owner and the claimant will refund the same. Releasing the remaining award will be considered after appearance of both parties.

List the matter after service of notice.

JUDGE

Na/

Comparing Assistant