

GAHC010146392018



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

Case No. : MACApp. 162/2019

1:THE ORIENTAL INSURANCE CO. LTD.,
A COMPANY REGISTERED UNDER THE COMPANIES ACT, 1956.
REPRESENTED BY ITS REGIONAL MANAGER, ULUBARI, GUWAHATI-7.

VERSUS

1:SMTI. SALEHA BEGUM AND 3 ORS.
W/O- LATE SAHADAT ALI

2:MD. SALAM ALI
S/O- LATE SAHADAT ALI

PERMANENT RESIDENT OF BURIGAON
HOUSE NO. 203
P.O. AND P.S.- DALGAON
DIST.- DARRANG- 784116
ASSAM
PRESENTLY RESIDING AT 2 NO. DAKHIN GAON
KAHILIPARA
P.S. DISPUR
GUWAHATI- 781019
DIST.- KAMRUP (M)
ASSAM.

3:SRI AJAY EKKA
S/O- LATE BIREN EKKA

R/O- VILL.- TELIPARA
WARD NO. 47
SMC
BHAKTINAGAR
SILIGURI- 734007.

4:SRI PULAK DEY
S/O- LATE GANESH DEY
PERMANENT RESIDENT OF VILL.- MADYA RAMPUR
P.O.- JORAI
P.S.- TUFANGANJ
DIST.- CACHBIHAR- 735303
PRESENTLY RESIDING AT C/O- SRI DEBAJIT SAHA
P.O. AND P.S.- GOSSAIGAON
DIST.- KOKRAJHAR (BTAD)
PIN- 783367

Advocate for the Petitioner : MR. S K GOSWAMI

Advocate for the Respondent : MR. K R BORA (R1,R2)

BEFORE
HONOURABLE MR. JUSTICE NELSON SAILO

ORDER

Date : 02-04-2019

Mr. A. Acharya, learned counsel for the appellant submits that the appellant being aggrieved with the judgment and order dated 19.04.2018 passed by the learned Member, Motor Accident Claims Tribunal No. 1, Kamrup in MACT Case No. 1460/2016 has filed the instant appeal.

The learned counsel referring to the grounds taken in the memorandum of appeal submits that the claimant failed to prove rash and negligent driving on the part of the offending vehicle in order to establish under Section 166 of the Motor Vehicles Act, 1988. He also submits that the wife of the deceased received full family pension and that as per relevant notification on account of pre-mature death, the employee concerned received full salary till retirement. Besides this the appellant also questions the jurisdiction of the Tribunal in adjudicating the matter.

In view of above, let the case be admitted and call for the LCR.

Issue notice to the respondents, returnable by 4(four) weeks.

Ms. U. Mudiar, learned counsel for the respondent Nos. 1 and 2.

Extra copies of the memorandum of appeal be furnished her if not already not given to her.

Appellant to take steps for service of notice upon respondent Nos. 3 and 4 by registered post with A/D within 3(three) days.

Having regard to the prospects made by the appellant, the impugned judgment and award shall remain subject to the appellant depositing 50% of the awarded amount within 6(six) weeks. On deposit of being made before the Registry of this Court, the respondent Nos. 1 and 2 shall be entitled to withdraw the same on proper identification and as per the usual formalities.

List this case again after a month.

JUDGE

Comparing Assistant