

GAHC010175572020



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

Case No. : MFA/110/2021

UNITED INDIA INSURANCE COMPANY LTD.
HAVING ITS REGISTERED OFFICE AND HEAD OFFICE AT 24, WHITES
ROAD, CHENNAI AND ITS REGIONAL OFFICE AT G.S. ROAD, DISPUR,
GUWAHATI.

VERSUS

KABITAN NESSA AND 5 ORS.
W/O- LATE AFSAR ALI, R/O- VILL.- BOLOGARAH, NIZ-KHARUPETIA, P.O.
KHARUPETIA, P.S. DHULA, DIST.- DARRANG, ASSAM., PIN- 784146.

2:MISS SHAJEDA KHATUN
R/O- VILL.- BOLOGARAH
NIZ-KHARUPETIA
P.O. KHARUPETIA
P.S. DHULA
DIST.- DARRANG
ASSAM.
PIN- 784146.

3:MISS ASHFUL NESSA
R/O- VILL.- BOLOGARAH
NIZ-KHARUPETIA
P.O. KHARUPETIA
P.S. DHULA
DIST.- DARRANG
ASSAM.
PIN- 784146.

4:HABIBUR RAHMAN
R/O- VILL.- BOLOGARAH
NIZ-KHARUPETIA
P.O. KHARUPETIA
P.S. DHULA

DIST.- DARRANG
ASSAM.
PIN- 784146.

5:KHAIBAR ALI
R/O- VILL.- BOLOGARAH
NIZ-KHARUPETIA
P.O. KHARUPETIA
P.S. DHULA
DIST.- DARRANG
ASSAM.
PIN- 784146

(RESPONDENT NOS. 2 TO 5 BEING MINORS ARE REP. BY THEIR LEGAL
GUARDIAN MOTHER
I.E. RESPONDENT NO. 1).

6:JILLUL HOQUE
S/O- NUR MAHOMMAD ALI
R/O- VILL.- BOLOGARAH
P.O. KHARUPETIA
P.S. DHULA
DIST.- DARRANG
ASSAM
PIN- 784146. (DRIVER CUM OWNER OF VEHICLE NO. AS-09-AC-5322)

Advocate for the Petitioner : MR. R GOSWAMI

Advocate for the Respondent : MR. B K DAS (1,2,3,4,5)

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 2.3.2023

Heard at length.

While going through the case record, it is brought to the notice of this court that no substantial question of law has been framed in this case, as mandated under Proviso 2 sub-Section 1 of Section 30 of the *Employees Compensation Act, 1923*, while admitting the present appeal under its order dated 9.9.2021.

Heard learned counsel for the parties on the substantial questions of law.

Following substantial questions of law are hereby framed:

A. Whether in a case filed under the E.C.Act, 1923 the Commissioner for Employees Compensation has the power to assess the wages of the deceased arbitrarily against the evidence by accepting the unproved wages claimed by the claimant.

B. Whether the Commissioner for Employees Compensation has the power to assess compensation by taking wages higher than that is stipulated as the ceiling in the Employees Compensation Act.

Issue notice returnable after four weeks.

Call for the records.

The appellant shall take steps on the respondents within a period of one week from today both by way of registered post with A/D as well as by usual process.

JUDGE

Comparing Assistant