

GAHC010179202020



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

Case No. : MFA/58/2022

THE NATIONAL INSURANCE COMPANY LTD.
THE NATIONAL INSURANCE COMPANY LTD.
Address - REGISTERED HEAD OFFICE AT 3, MIDDLETON STREET,
CALCUTTA- 700071, REP. BY THE MANAGER, GAUHATI REGIONAL
OFFICE, BHANGAGARH, GUWAHATI, KAMRUP(M), ASSAM, PIN- 781005.

VERSUS

MD. ABDUL MALEK AND ANR. B
MD. ABDUL MALEK AND ANR.
Address - S/O- MD. SAMIR ALI, R/O- VILL.- PANCHMILE TENGABASTI, P.O.
PANCHMILE, P.S. TEZPUR, DIST.- SONITPUR, ASSAM, PIN- 784025.

2:MRS. ANUWARA JAHAN
W/O- AYUB ALI
R/O- VILL.- URIAMGURI
P.O. PANCHMILE
P.S. BORGHAT
DIST.- SONITPUR
ASSAM
PIN- 784025

Advocate for the Petitioner : MS. R D MOZUMDAR
Advocate for the Respondent : MR. K BHATTACHARJEE

BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG

ORDER

29.04.2022

Heard Ms. R D Mazumdar, learned counsel for the appellant.

This is an application under Section 30 of the Workmen's Compensation Act 1923 against the Judgment and Award dated 27.02.2019 passed by the learned Commissioner, Employees Compensation, Sonitpur, Tezpur in WC Case No. 32/2012.

Appeal is admitted on the following substantial question of law:

1. Whether in view of the fact that the injuries and the resultant disability would not incapacitate the workmen in pursuing every employment, the compensation can be assessed under section 4(b) of the E.C. Act, 1923, as done by the learned Commissioner in a perverse manner?
2. Whether the Learned Commissioner can assess a loss of earning capacity on his own?
3. Whether in view of the fact that the injuries suffered by the petitioner does not fall under Schedule-I injuries of the E.C. Act, 1923, the compensation can be granted under Section 4 (b) of the E.C. Act, 1923?
4. And any other substantial question of law that may arise at the time of final hearing.

Notice is to be issued to the respondents by registered A/D post and by usual process, returnable within three weeks.

Call for the LCR.

List the matter after three week.

JUDGE

Comparing Assistant