

GAHC010181982025



2025:GAU-AS:13060

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

Case No. : I.A.(Civil)/2820/2025

JESMINA KHATUN
W/O- LATE RAJIBUL ISLAM, R/O- VILL. AND P.O. BAGUDI, MOUZA-
NAGAON, P.S. AND DIST.- BARPETA, ASSAM, PIN- 781311.

2: MATIYAR RAHMAN
S/O- LATE KALIM UDDIN
R/O- VILL. AND P.O. BAGUDI
MOUZA- NAGAON
P.S. AND DIST.- BARPETA
ASSAM
PIN- 781311.

3: RUKIA BEGUM
W/O- MATIYAR RAHMAN
R/O- VILL. AND P.O. BAGUDI
MOUZA- NAGAON
P.S. AND DIST.- BARPETA
ASSAM
PIN- 781311.

4: REJAUL ISLAM
S/O- LATE RAJIBUL ISLAM
R/O- VILL. AND P.O. BAGUDI
MOUZA- NAGAON
P.S. AND DIST.- BARPETA
ASSAM
PIN- 781311.

5: AMINUL ISLAM
S/O- KHALILUR RAHMAN
R/O- VILL. AND P.O. BAGUDI
MOUZA- NAGAON
P.S. AND DIST.- BARPETA
ASSAM

PIN- 781311. (OWNER-CUM-DRIVER OF VEHICLE NO. AS-15G-9644 (BAJAJ PULSAR)

VERSUS

THE UNITED INDIA INSURANCE CO LTD
HAVING ITS REGISTERED OFFICE AT 24 WHITES ROAD, CHENNAI-600014
AND REGIONAL OFFICE AT CHIBBER HOUSE, G.S. ROAD, GUWAHATI-5,
REP. BY ITS REGIONAL MANAGER, REGIONAL OFFICE, GUWAHATI.

Advocate for the Petitioner : MR. F A HASSAN, MD. I HUSSAIN, MD E AHMED(R-5)

Advocate for the Respondent : ,

Linked Case : MACApp./138/2020

UNITED INDIA INSURANCE COMPANY LIMITED
HAVING ITS REGISTERED OFFICE AT 24 WHITES ROAD
CHENNAI-600014 AND REGIONAL OFFICE AT CHIBBER HOUSE
G.S. ROAD
GUWAHATI-5
REP. BY ITS REGIONAL MANAGER
REGIONAL OFFICE
GUWAHATI. (INSURER OF THE VEHICLE NO. AS-15G-9644 (BAJAJ PULSAR).

VERSUS

JESMINA KHATUN AND 4 ORS.
W/O- LATE RAJIBUL ISLAM
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MOUZA- NAGAON
P.S. AND DIST.- BARPETA
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ASSAM
PIN- 781311. (OWNER-CUM-DRIVER OF VEHICLE NO. AS-15G-9644 (BAJAJ PULSAR).

Advocate for : MR. A DUTTA

Advocate for : MR. F A HASSAN appearing for JESMINA KHATUN AND 4 ORS.

BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA
ORDER

Date : 22.09.2025.

Heard Mr. S.C. Biswas, learned counsel for the applicant/ appellant.

This application is filed challenging the order dated 30.06.2025, passed by the learned Member, MACT, Barpeta rejecting the prayer of the applicant to deliver the cheque amounting to Rs.5 lacs to the applicant.

It is submitted by Mr. Biswas, the learned counsel for the applicant/appellant that the applicant filed a petition under Section 166 of the M.V. Act, 1988 before the learned Member, MACT, Barpeta seeking compensation for the death of Late

Rafiqul Islam, which was registered as the MAC Case No. 121/2019 and accordingly, the Member, MACT, Barpeta also pleased to award compensation of Rs.27,30,400/-, directing the Insurance Company to pay the compensation. Thereafter, the Insurance Company preferred an appeal under Section 173 of the M.V. Act, 1988, assailing the above judgment and award dated 07.12.2019 and the appeal was accordingly registered as the MAC Appeal No.138/2020.

The applicant also engaged counsel to conduct the appeal. On admission of the appeal, 50% of the awarded amount was also deposited by the Insurance Company and that was also paid to the claimants. Thereafter, the judgment was passed in the MAC Appeal No.138/2020, vide order dated 19.03.2024 and the final awarded amount was reduced to some extent.

In pursuant to the order dated 23.05.2025, passed in I.A. (Civil) No.1337/2025, arising out of MAC Appeal No.138/2020, the Registry had disbursed the remaining awarded amount to the claimants through Advocate, after due verification of their identities.

However, a cheque amounting to Rs. 5 lacs pertaining to the share of the minor claimant represented by the natural guardian/the present applicant was directed to be collected from the learned Member, MACT, Barpeta, for the purpose of being fixed deposit in the name of the minor. Accordingly the applicant, through their newly engaged counsel has submitted a petition being No.1742/2025, along with necessary documents for identification of the applicant, praying for release and delivery of the said cheque. However, by the order dated 30.06.2025, the learned Member, MACT, Barpeta had rejected the said petition on the ground that it was not filed by the counsel, who was originally engaged in MAC Case No. 121/2019 .

It is further submitted by Mr. Biswas, the learned counsel for the applicant/appellant that the applicant was represented by the newly engaged counsel at the stage of appeal and the applicant also withdrawn the money which was deposited in the Registry and the newly engaged counsel has also identified the applicant before the Registry of this Court and hence, there cannot be any legal bar for the newly engaged counsel to represent the applicant before the learned Member, MACT, Barpeta, for the purpose of collecting the aforesaid cheque amount.

More so, it is also submitted by Mr. Biswas, the learned counsel for the applicant/appellant that the previously engaged counsel also imposed certain conditions which are neither reasonable nor practicable for the applicant to fulfill. But the learned Member, MACT, Barpeta did not consider this aspect of the case and had rejected the prayer for release of the cheque amounting to Rs.5 lacs in favour of the applicant, who was identified by the newly engaged counsel who represented the applicant at the appellate stage.

Heard the submission of learned counsel for the applicant and also perused the order passed by the learned Member, MACT, Barpeta on 30.06.2025, while rejecting the prayer for releasing the cheque amounting to Rs.5 lacs in favour of the applicant.

From the order, it reveals that the learned Member, MACT, Barpeta basically emphasized on Rule 12 of the Gauhati High Court (Conditions of Practice of Advocates) Rules, 2010 and also emphasized on Rule 39 of Part 6 (Rules Governing Advocates) of Bar Council of India and considering those legal propositions, as discussed in the order, the petition submitted by the newly engaged counsel was rejected with the above observation. It is also held by the learned Member, MACT, Barpeta that the newly engaged counsel/applicant also

could not furnish any no objection certificate from the earlier engaged counsel at the time of submitting the application for release of the cheque.

On perusal of the order, it is seen that the learned Member, MACT, Barpeta had rejected the petition considering some legal aspects of the case and I do not find any illegality or irregularity committed by the learned Member, MACT, Barpeta.

However, considering the submissions made by the learned counsel for the applicant, specially the conditions which were put by the earlier engaged counsel only to represent the applicant and also considering the fact that the newly engaged counsel had also duly represented the applicant at the appellate stage and considerable amount of the awarded money had also been released in favour of the applicant on being identified by the newly engaged counsel.

So considering all these aspects of the case, the applicant is hereby directed to file a fresh petition before the learned Member, MACT, Barpeta with justified reason as to why the earlier counsel could not be engaged by the applicant to represent him before the Tribunal and considering those aspects, if it is found to be justified by the learned Member, MACT, Barpeta, may release the cheque in favour of the applicant, which was deposited in favour of the minor.

With the above observation, this Interlocutory Application stands allowed and disposed of.

JUDGE

Comparing Assistant