

GAHC010190592020



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

Case No : I.A.(Civil)/45/2021

ORIENTAL INSURANCE COMPANY LTD.
HAVING ITS REGISTERED OFFICE AT ORIENTAL HOUSE
A-25/27
ASAF ALI ROAD
NEW DELHI- 110002 AND REGIONAL OFFICE AT GUWAHATI-7
REP. BY THE REGIONAL MANAGER.

VERSUS

UTTAM SARMA AND 3 ORS.
S/O- LATE ADYA NATH SARMA
R/O- AKASHI NAGAR
WARD NO. 42
NEAR SARMA STORE
P.O. CHANDMARI
DIST.- KAMRUP
PIN- 781021.

2:SMTI. MAMONI DEVI
W/O- UTTAM SARMA
R/O- AKASHI NAGAR
WARD NO. 42
NEAR SARMA STORE
P.O. CHANDMARI
DIST.- KAMRUP
PIN- 781021.
3:MRS. KIRAN DEVI JAIN
W/O- LATE B.R. JAIN
R/O- DHING ROAD
HAIBARGAON
P.O. HAIBARGAON
DIST.- NAGAON

ASSAM
PIN- 782002.
4:MD. REAZUL ALI
S/O- SOFIQUE UDDIN
R/O- VILL.- BALIRAM PATHER
P.O. JAMUNAMUKH
DIST.- NAGAON
ASSAM.

Advocate for : MR SISHIR DUTTA
Advocate for : appearing for UTTAM SARMA AND 3 ORS.

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 12.01.2021

Heard Mr. S. Dutta, learned senior counsel assisted by Mr. S. Dutta, learned counsel for the applicant.

This is an application for stay of the judgment and award impugned in the connected appeal.

Issue notice returnable on 22.02.2021.

The applicant shall take steps for service of notice on the opposite parties by usual process as well as by registered post with A/D within a week from today.

Heard the learned senior counsel on the prayer for interim relief.

Referring to Annexure-2 of the connected memo of appeal, it is submitted that a manual driving license which was not converted into smart card by 1st December, 2014, stands cancelled as per Transport Commissioner's notification order No.TC No.23/MV/2007(PT-1) dated 1st August, 2014. Hence, it is projected that on the date of the accident, driver of the vehicle, namely, Md. Reazul Ali did not have a valid driving license. On that count, the liability of satisfying the award has been questioned in the connected appeal and it is submitted that the usual practice of pay and recover principle would not be applicable in the present case in hand as the driver of the offending vehicle did not have a valid driving license.

Accordingly, as an interim measure and until further orders, the enforcement of the award dated 21.09.2020 passed by the learned Member, MACT No.1, Kamrup in MAC Case No.156/2017 is stayed without requiring any pre-deposit of a part of the award as pre-condition for grant of stay.

List on 22.02.2021.

JUDGE

Comparing Assistant