

GAHC010190592020



2026:GAU-AS:123

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

**Case No. : MACApp./4/2021**

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 the Petitioner** : MR SISHIR DUTTA, MR S DUTTA,MR. S DUTTA

**Advocate for the Respondent** : MR. A HUSSAIN, ,MR J KALITA,MR N SARMA,MS. M R  
DOLAI,MR M AHMED

Linked Case : MACApp./338/2021

MRS. KIRAN DEVI JAIN  
W/O LATE B.R. JAIN  
R/O DHING ROAD  
HAIBARGAON  
NAGAON  
P.O. AND P.S.-HAIBARGAON  
DIST-NAGAON  
ASSAM  
PIN-782002

VERSUS

ORIENTAL INSURANCE COMPANY LTD. AND 3 ORS.  
HAVING ITS REGISTERED OFFICE AT ORIENTAL HOUSE A-25/27  
ASAF ALI ROAD  
NEW DELHI-110002. REPRESENTED BY REGIONAL MANAGER  
ULUBARI  
GUWAHATI-7

2:MD REAZUL ALI  
S/O SOFIQUE UDDIN  
R/O VILL-BALIRAM  
P.O. AND P.S.-JAMUNAMUKH  
DIST-HOJAI  
ASSAM  
PIN-

3:KEDAR RAY  
S/O LATE LACHARMAN RAY  
R/O LANKA TOWN  
WARD NO-1

SWAHID KHARGESWAR TALUKDAR PATH  
P.O. AND P.S.-LANKA  
DIST- HOJAI  
ASSAM  
PIN-782446

4:MISS MOON RAI  
D/O SRI KEDAR RAY  
R/O LANKA TOWN  
WARD NO-1  
SWAHID KHARGESWAR TALUKDAR PATH  
P.O. AND P.S.-LANKA  
DIST- HOJAI  
ASSAM  
PIN-782446

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Advocate for : MR M AHMED  
Advocate for : MR S DUTTA (r-1) appearing for ORIENTAL INSURANCE  
COMPANY LTD. AND 3 ORS.

Linked Case : MACApp./340/2021

MRS. KIRAN DEVI JAIN  
W/O LATE B.R. JAIN  
R/O DHING ROAD  
HAIBARGAON  
NAGAON  
P.O. AND P.S.-HAIBARGAON  
DIST-NAGAON  
ASSAM  
PIN-782002

VERSUS

ORIENTAL INSURANCE COMPANY LTD. AND 3 ORS.  
HAVING ITS REGISTERED OFFICE AT ORIENTAL HOUSE A-25/27  
ASAF ALI ROAD  
NEW DELHI-110002. REPRESENTED BY REGIONAL MANAGER  
ULUBARI  
GUWAHATI-7  
DIST-KAMRUP(M)

2:MD REAZUL ALI  
S/O SOFIQUE UDDIN  
R/O VILL-BALIRAM

P.O. AND P.S.-JAMUNAMUKH  
DIST-HOJAI  
ASSAM  
PIN-

3:UTTAM SARMA  
S/O LATE ADYA NATH SARMA  
R/O AKASHI NAGAR  
WARD NO-42  
NEAR SARMA STORE  
P.O. AND P.S.-CHANDMARI  
GUWAHATI  
DIST-KAMRUP(M)  
ASSAM  
PIN-781021

4:SMTI MAMONI DEVI  
W/O SRI UTTAM SARMA  
R/O AKASHI NAGAR  
WARD NO-42  
NEAR SARMA STORE  
P.O. AND P.S.-CHANDMARI  
GUWAHATI  
DIST-KAMRUP(M)  
ASSAM  
PIN-781021

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Advocate for : MR M AHMED  
Advocate for : MR S DUTTA (R-1) appearing for ORIENTAL INSURANCE  
COMPANY LTD. AND 3 ORS.

Linked Case : MACApp./3/2021

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

KEDAR RAY AND 3 ORS.  
S/O- LATE LACHARMAN RAY  
R/O- LANKA TOWN

WARD NO. 1  
SWAHID KHARGESWAR TALUKDAR PATH  
P.S. LANKA  
DIST.- HOJAI  
ASSAM.

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D/O- KEDAR RAY  
R/O- LANKA TOWN  
WARD NO. 1  
SWAHID KHARGESWAR TALUKDAR PATH  
P.S. LANKA  
DIST.- HOJAI  
ASSAM.

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.

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Advocate for : MR SISHIR DUTTA  
Advocate for : MR M AHMED appearing for KEDAR RAY AND 3 ORS.

Linked Case : I.A.(Civil)/43/2021

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

KEDAR RAY AND 3 ORS.  
S/O- LATE LACHARMAN RAY  
R/O- LANKA TOWN  
WARD NO. 1  
SWAHID KHARGESWAR TALUKDAR PATH  
P.S. LANKA  
DIST.- HOJAI  
ASSAM.

2:MISS MOON RAI  
D/O- KEDAR RAY  
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WARD NO. 1  
SWAHID KHARGESWAR TALUKDAR PATH  
P.S. LANKA  
DIST.- HOJAI  
ASSAM.

3:MRS. KIRAN DEVI JAIN  
W/O- LATE B.R. JAIN  
R/O- DHING ROAD  
HAIBARGAON  
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S/O- SOFIQUE UDDIN  
R/O- VILL.- BALIRAM PATHER  
P.O. JAMUNAMUKH  
DIST.- NAGAON  
ASSAM.

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Advocate for : MR SISHIR DUTTA  
Advocate for : appearing for KEDAR RAY AND 3 ORS.

Linked Case : 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.

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S/O- LATE ADYA NATH SARMA  
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P.O. JAMUNAMUKH  
DIST.- NAGAON  
ASSAM.

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

**:: BEFORE ::**

**(HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA)**

Advocate(s) for the Appellants : Mr. S. Dutta,  
Advocate.

Advocate(s) for the Respondent(s) : Mr. M. Ahmed and  
Mr. N.J. Gogoi,  
Advocates.

Date on which judgment is reserved : 04.09.2025.

Date of pronouncement of judgment : 06.01.2026.

Whether the pronouncement is of the  
operative part of the judgment? : YES.

Whether the full judgment has been  
pronounced? : YES.

**JUDGMENT AND ORDER (CAV)**

Heard Mr. S. Dutta, learned counsel representing the appellants. Also heard Mr. M. Ahmed and Mr. N.J. Gogoi, learned counsel appearing for the respondents.

2. These batch of applications are under Section 173 of the Motor Vehicles Act challenging the judgment and award dated 21.09.2020 passed by the Motor Accident Claims Tribunal No.1, Kamrup (M) in MAC Case Nos.156/2017 & 157/2017.
3. The claimants Uttam Sarma and Mamoni Devi had filed the petition under Section 166 and 140 of the MV Act being MAC Case No.156/2017 claiming compensation on account of the death of their son Brajen Sarma.
4. Similarly, the claimants Kedar Ray and Ms. Moon Rai filed another petition under Section 166 and 140 of the M.V. Act being MAC Case No.157/2017 claiming compensation for the death of Arun Ray, the son of Kedar Ray and brother of Ms. Moon Rai.
5. On 09.11.2016 at about 9 P.M., the deceased Brajen Sarma (MAC Case No.156/2017) along with his four friends were travelling from Tezpur to Guwahati in a Maruti Car bearing Registration AS-02/K-3487. At that time, a truck bearing Registration AS-01/AC-0528 was going ahead of the said car. At Mitham, near Ursola High School, the truck suddenly stopped on the road and the said Maruti Car could not stop the vehicle and dashed against the truck. As a result of the accident, Brajen Sarma (MAC Case No.156/2017) and Arun Ray (MAC Case No.157/2017) died instantly.
6. According to the claimants, the accident occurred due to rash and negligent driving of the truck bearing Registration AS-01/AC-0528.
7. Both the claim cases being MAC Case No.156/2017 and MAC Case No.157/2017 were heard and

disposed of together.

8. The appellant Insurance Company representing the truck bearing Registration AS-01/AC-0528 contested the claim petition by filing written statement. They denied rash and negligent driving by the truck.

9. The Tribunal framed the following issues:

1. Whether the deceased, late Brajen Sarma (MAC Case No.156/2017) and the deceased late Arun Ray in (MAC Case No.157/2017) died in the alleged road accident dated 09.11.2016 involving the vehicle bearing No. AS-01/AC-0528 and whether the said accident took place due to rash and negligent driving by the driver of the offending vehicle?

2. Whether the claimants are entitled to receive any compensation and if yes, to what extent and by whom amongst the opposite parties, the said compensation amount are payable?

10. The claimants in both the cases examined three witnesses and the Insurance Company three witnesses in both the cases. Finally, the Tribunal awarded a compensation of ₹9,37,200/- in MAC Case No.156/2017 and the same amount in MAC Case No.157/2017 along with interest @ 7.5% p.a. from the date of filing of the case.

11. I have considered the submissions made by the learned counsel of both sides.

12. There is no denial of the fact that Brajen Sarma and Arun Ray were the occupants of the vehicle bearing Registration AS-02/K-3487 and their vehicle dashed against a truck bearing Registration AS-01/AC-0528. There is also no denial of the fact that both of them died instantly. Therefore, the claimants are entitled to compensation under the provisions of the Motor Vehicles Act.

13. It is an admitted fact that the Maruti Car bearing Registration AS-02/K-3487 was following the truck bearing Registration AS-01/AC-0528. When the truck suddenly stopped on the middle of the road, the Maruti Car could not stop and dashed against the truck. It is clear on the face of the record that if the Maruti Car could stop itself, no accident would have taken place. The car could not stop and hit the truck from behind. It is also clear on the face of the record that the Maruti Car had contributed to a great extent towards the occurrence of the accident.

14. This Court is of the opinion that the contribution of the Maruti Car in the said accident is equal to that of the truck. The Insurance Company of the Maruti Car was not made a party in both the cases. The Insurance Company of the truck is not liable to pay the entire amount of compensation to the claimants. The Oriental Insurance Company Ltd. representing the truck shall pay half of the compensation awarded by the Tribunal in both MAC Case No.156/2017 and MAC Case No.157/2017. The compensation amount shall carry an interest @ 6% p.a. since the date of filing of the claim petitions till full and final payment. The entire amount of the compensation shall be paid to the claimants without any riders.

With the aforesaid direction, these batches of MAC appeals along with Interlocutory Applications are disposed of.

**JUDGE**

**Comparing Assistant**