

GAHC010139252025



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

Case No. : MC/91/2023

NATIONAL INSURANCE CO. LTD.
A GOVT. OF INDIA UNDERTAKING CO. HAVING ITS REGISTERED OFFICE AT
NO. 3 MIDDLETON STREET
KOLKATA AND ONE OF THE REGIONAL OFFICE SITUATED AT G.S. ROAD
BHANGAGARH
GUWAHATI 781005

VERSUS

SRI MRINMOY JYOTI HAZARIKA and 3 ORS
S/O SRI SURAJ KAMAL HAZARIKA
R/O WARD NO. 7
LAKHIMPUR TOWN
P.S.-NORTH LAKHIMPUR
DIST-LAKHIMPUR
ASSAM

2:SAMIR MITRA
S/O LT. S. MITRA
R/O WARD NO. 7
LAKHIMPUR TOWN
P.S.-NORTH LAKHIMPUR
DIST-LAKHIMPUR
ASSAM
PIN 787001.

3:BIMAN PHUKAN

S/O BHUBAN PHUKAN
R/O KALIAPANI GAON
MADHUPUR
DEMOEU

DIST-SIVASAGAR
ASSAM
PIN 785662

4:KUMUD GOGOI
S/O BIMAN PHUKAN
R/O KALIAPANI GAON
MADHUPUR
DEMOEU
DIST-SIVASAGAR
ASSAM
PIN 785662.

Advocate for : MR. A J SAIKIA
Advocate for : MR A SAIKIA(R1) appearing for SRI MRINMOY JYOTI HAZARIKA
and 3 ORS

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 27.02.2026

- 1.** Heard Mr. A. J. Saikia, learned counsel for the appellant. Also heard Mr. A. Saikia, learned counsel for the respondent No. 1/claimant.
- 2.** This Misc. case has been registered on filing of an application for restoration of the readmission of the MAC Appeal No. 43/2023, which was dismissed for default by a Co-ordinate Bench of this court on 22.03.2023.
- 3.** The learned counsel for the applicant has submitted that the MAC Appeal No. 43/2023 has been filed by the present petitioner impugning the judgment of the Motor Accident Claims Tribunal No. 2, Kamrup, Guwahati in MACT Case No. 1612/2006 whereby the present applicant was directed to pay an amount of Rs.2,07,500/- along with an interest at the rate of 6% per annum to the claimant. He submits that on the date of passing the impugned order i.e., 22.03.2023, when the aforesaid MAC appeal was dismissed for default, the name of the engaged counsel for the appellant was not reflected in the cause-list and as such, the

engaged counsel for the appellant were not aware that the matter would be called on for hearing on that day.

4. The learned counsel for the petitioner submits that there was no *mala fide* on the part of the appellant in appearing before the Court when the matter was called on for hearing. The reason for not appearing before the Court was only that the engaged counsel was not aware about the listing of the matter on the said day. In support of his submission, the learned counsel for the petitioner has annexed the relevant cause-list dated 22.03.2023.

5. On the other hand, Mr. A. Saikia, learned counsel for the claimant/respondent No. 1 submits that before 22.03.2023, when the aforesaid MAC appeal was dismissed for default, the appeal was also listed on 22nd February, 2023 and on the same date also, nobody had appeared for the appellant. However, the appellant has not clarified their absence on the previous day neither any cause-list of the said date has been annexed in their application.

6. I have considered this submission made by the learned counsel for the parties.

7. It appears that the MAC Appeal No. 43/2023 was dismissed for default on 22nd March, 2023. It also appears that the said appeal was listed as Item No. 11 in the cause-list of Court No. 20 on that day. It also appears that though the name of Ms. P. Sarmah has been shown in the cause-list as engaged counsel for the appellant, the name of the present counsel, namely, Mr. A. J. Saikia, was not shown. In the petition filed by the present petitioner, it is contended that the appellant has earlier engaged one Mr. B. K. Purkayastha in the aforesaid appeal. However, later on, on 27.01.2020, the present counsel, namely, Mr. A. J. Saikia, was engaged.

8. Since, the material on record including the cause-list dated 22.03.2023

also shows that the name of the engaged counsel for the appellant, namely, Mr. A. J. Saikia was not reflected in the cause-list on that day, there is every likelihood that the engaged counsel for the appellant may not be aware about listing of the said matter. Hence, this Court is of considered opinion that the said grounds may be regarded as sufficient cause which has prevented the engaged counsel for the appellant from appearing before the Court when the appeal was called on for hearing.

9. As such, this Court is inclined to allow this case and direct the re-admission of MAC Appeal No. 43/2023 along with I.A.(C) No. 2337/2019 on 5th of March, 2026.

10. This Misc. case is accordingly disposed of.

11. Till that date, the warrant of arrest issued by the Bakijai Certificate Officer against the Certificate Debtor in B.J. Case No. 89/2024 (MACT) shall remain stayed.

12. The name of Mr. A. J. Saikia may be shown as engaged counsel for the appellant in the cause-list henceforth.

JUDGE

Comparing Assistant