

GAHC020008202025



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

Case No. : MACApp./25/2025

ORIENTAL INSURANCE COMPANY LTD.
HAVING ITS REGISTERED AND HEAD OFFICE OF ORIENTAL HOUSE A-25/27
ASAF ALI ROAD
NEW DELHI-110002 AND REGIONAL AND DIVISIONAL OFFICES IN SEVERAL
PLACES
INCLUDING REGIONAL OFFICE ATY GUWAHATI
ASSAM AND A DIVISIONAL OFFICE AT DIMAPUR IN THE STATE OF
NAGALAND.

VERSUS

SMTI. SABIRA MUMTAZ BEGUM AND 5 ORS
W/O LATE AKAMUL ISLAM
R/O GOLAGHAT ROAD
DIMAPUR
NAGALAND (REPRESENTING RESPONDENT NO. 2
3
4)

2:SHRI MD. SHAMIN AHSAN
S/O LATE AKAMUL ISLAM
R/O GOLAGHAT ROAD
DIMAPUR

3:SHRI MD. AKKACH ALI
S/O LATE HACHEN ALI
R/O GOLAGHAT ROAD
DIMAPUR

4:SMTI. JAMENA KHATTON
WIFE OF SHRI MD. AKKACH ALI
R/O GOLAGHAT ROAD
DIMAPUR

5:SHRI BULUMAI HAZARIKA
W/O MR. TELESWAR HAZARIKA
VILLAGE- LOTHOW
P.O. NOWBOICHA
DISTRICT- LAKHIMPUR-ASSAM. (OWNER OF MARUTI ALTO
B/R NO. AS-07-G-6423)

6:SHRI BUL SAIKIA
S/O MANIK SAIKIA
R/O GANDHALIPAR VILLAGE
LAKHIMPUR
ASSAM. (DRIVER OF MARUTI ALTO
B/R NO. AS-07-G-6423)

Advocate for : KIM PIENYU
Advocate for : appearing for SMTI. SABIRA MUMTAZ BEGUM AND 5 ORS

BEFORE
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

ORDER

07/04/2026

The instant appeal U/S 173 of the Motor Vehicles Act, 1988, has been filed against the judgment and award dated 01.09.2025 passed by the learned Motor Accident Claim Tribunal, Dimapur, Nagaland in MACT case No. 70/2017.

2. Heard learned counsel for the appellant, Ms. Kim Pienyu.
3. The Main grounds taken by the appellant in the present appeal is that the claim petition before the tribunal was filed under Section 166 of the M.V. Act and as such, the onus lies with the claimant to

prove rash and negligent driving by conclusive and concrete evidence. However, the same was not proved by the claimant before the tribunal but the learned MACT failed to appreciate this aspect and has committed grave error by passing the impugned judgment dated 01.09.2025. It is also submitted that the accident in the present case happened in Assam and the police FIR, the investigation report, and also the post mortem were all conducted in Assam and there was no evidence that the claimant was a resident of Dimapur, Nagaland.

4. Another ground taken by the appellant is that the deceased was a vegetable and poultry dealer and it was claimed that the deceased was earning Rs. 12,000/- Pm. However, there was no proof of income and no corroborative documentary evidence was produced by the claimants during the trial. Therefore, the learned tribunal should have determined the income on the basis of notional income/ minimum wages.

5. Issue Notice, returnable in 4 (four) weeks.

6. The appellant shall taken steps for service of notice on the respondent Nos. 5 and 6 by substituted summons through publication in a local daily circulated in the State of Assam. The respondent Nos. 1,2,3 and 4 are represented by learned counsel, Mr. Nongosa and therefore, no formal notice is called for.

7. Call for the Trial Court Records from the MACT, Dimapur.

List after 4 (four) weeks.

Sd/-
JUDGE

Comparing Assistant