GAHC010197792018



2026:GAU-AS:10958

IN THE GAUHATI HIGH COURT
HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

MACApp./904/2018

1. Smt Rumi Baruah Sonowal
W/O Late Jagat Sonowal,
Resident of Village Borhola Tinaili, Kheremaigaon,
PO Borholla, 785631,
PS Borhola, District - Jorhat, Assam

2. Miss Banashree Sonowal
D/O Late Jagat Sonowal
Resident of Village Borhola Tinaili Kheremaigaon
PO Borholla 785631
PS Borhola District Jorhat Assam
To be represented by her mother
Smti Rumi Baruah Sonowal

3. Miss Maitreyee Sonowal
D/O Late Jagat Sonowal
Resident of Village Borhola Tinaili Kheremaigaon
PO Borholla 785631
PS Borhola District Jorhat Assam
To be represented by her mother
Smti Rumi Baruah Sonowal

.....Appellants

-Versus-

1. The United India Insurance Co. Ltd

Represented by its Regional Manager, Regional Office, Christain Basti, Bhangagarh, Guwahati 781005.
Policy No. 130305311P 101411268 Main Branch

2. Sri Amrit Gogoi
S/O Late Punyadhar Gogoi
Permanent resident of Village Bagtoli Pathar Gaon
PO Naharjan Naharani PS Khowang
District Dibrugarh Assam 785675

.....Respondents

For Appellants : Mr. P. Bhowmick, Advocate

For Respondents : Mr. R.C. Paul, Advocate

Date of Hearing : **19.05.2026**
Date of Judgment : **07.08.2026**

BEFORE
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA

JUDGMENT AND ORDER

1. Heard Mr. P. Bhowmick, the learned counsel for the appellants. Also heard Mr. R.C. Paul, the learned counsel for the respondent No. 1.

2. This appeal under Section 173 of the Motor Vehicles Act, 1988 has been filed by the appellants impugning the judgment and award dated 17.05.2018 passed by the Motor Accident Claims Tribunal cum Additional District Judge, No.3, FTC, Kamrup (M), Guwahati in MAC Case No.1299/2014 whereby the respondent No. 3 was directed to pay

a compensation amount of Rs. 33,57,000/- along with an interest of 6% per annum to the claimants.

3. The appellants are aggrieved with the finding of the Tribunal regarding attributing contributory negligence to the driver of the Ford Figo vehicle also to the extent of 50%.

4. The facts relevant for consideration for the instant appeal are that on 01.06.2014 at about 4.00 pm, the present appellant No. 1, namely, Smt. Rumi Baruah Sonowal was coming from Nakhat, Dibrugarh towards Jorhat in a Ford Figo vehicle bearing Registration No. AS-03-H-7422. The said vehicle was driven by the husband of the appellant No.1, namely, late Jagat Sonowal. When the said vehicle reached near Dichang Rajabari, at that point of time an Indica Car bearing Registration No.AS-06-G-1897 hit the Ford Figo vehicle, in which the claimant No.1 and her husband were travelling, from backside as a result of which the Ford Figo vehicle fell into a ditch. The husband of the appellant No. 1 died on the spot as a result of injuries sustained by him in the aforesaid accident. The appellant No. 1 also sustained injuries in the said accident but she survived.

5. After the death of her husband the appellant No. 1, she along with her two minor daughters, namely, Banashree Sonowal and Maitreyee Sonowal, approached the Motor Accident Claims Tribunal cum Additional District Judge, No.3, FTC, Kamrup (M), Guwahati by filing an application under Section 166 of the Motor Vehicles Act, 1988 claiming compensation for the death of her husband/their father. The said claim case was registered as MAC Case No. 1299/2014. The present respondent No. 1, i.e., the United India Insurance Company Limited (opposite party No. 1 in the aforesaid claim case) contested the claim

of the appellants by filing the written statement, wherein it took the usual defences, which are normally taken by insurance companies in claims cases.

6. The opposite party No. 2, i.e., the owner of the offending vehicle did not contest the case and the claims case proceeded ex-parte against him. On the basis of the pleading of parties, the Motor Accident Claims Tribunal framed the following issues:-

i. Whether late Jagat Sonowal died of injuries he suffered in the alleged road accident dated 01.06.2014 occurred at Dichang, Rajabari under Demow Police Station involving vehicle No. AS-06-G-1897 and whether the said accident took place due to rash and negligent driving by the driver of the offending vehicle?

ii. Whether the claimant(s) are entitled to receive any compensation, and if yes, to what extent and by whom amongst the opposite parties, the said compensation amount will be payable?

7. In support of their claim, the claimant side adduced evidence of three witnesses including the claimant No.1 (the present appellant No.1) and exhibited thirteen (13) documents as documentary evidence. Whereas, the insurance company adduced evidence of one defence witness and exhibited five documents. Ultimately, by the judgment and award, which has been impugned in this appeal, the Motor Accident Claims Tribunal held that the drivers of both the vehicles involved in the accident, namely, Ford Figo as well as Indica Car were at fault and there was contributory negligence on the part of the deceased who

was driving the Ford Figo vehicle. Accordingly, though, it came to the finding that the claimants are entitled to get a compensation amount of Rs.67,12,000/-, however, since the claimant failed to implead the insurance company of the Ford Figo Vehicle as a party in the claims case, it directed the present respondent No.1, the insurance company to pay 50% of the awarded amount, i.e., Rs. 33,57,000/- along with an interest at the rate of 6% per annum to the claimants. It is pertinent to mention herein that the aforesaid amount has been already paid by the respondent No.1.

8. Mr. P. Bhowmick, the learned counsel for the appellants has submitted that the Motor Accident Claims Tribunal erred in holding, in the impugned judgment, that there was contributory negligence on the part of the deceased without there being any reliable evidence to that effect on record. He submits that the Tribunal committed perversity in holding in paragraph No. 14 of the impugned judgment that it is evident from the documents of police case that the victim was also at fault for driving his vehicle rashly and negligently, and there was no such material on record to come to the said finding. He submits that the charge-sheet filed in the police case which was registered in connection with the aforesaid accident clearly shows that the Tata Indica Car hit the Ford Figo Car from backside on the door, as a result of Ford Figo Car lost its control and fell into the ditch, resulting into death of the husband of the appellant No. 1.

9. He further submits that the Tribunal also erred in not considering the fact that when the charge-sheet was laid against the driver of the Tata Indica Car, it could not have come to the finding that merely because two vehicles were involved in the accident, the deceased was also at

fault of contributory negligence for the said accident. The Tribunal failed to take into consideration the fact that the vehicle, which was driven by the deceased, i.e., the Ford Figo Vehicle was hit by the Tata Indica Car from backside at its right hand side door. He submit that the claimant's witness No. 1 (the present appellant No. 1) while deposing before the Tribunal has categorically stated that the Indica Car hit their vehicle from backside as result of which the Ford Figo Car fell into the ditch. He submits that this testimony of the eye witness, who was an occupant of the Ford Figo Car, remained uncontroverted and has been corroborated by the testimony of another eyewitness, i.e., CW-2. He submits that the Tribunal failed to take into consideration the uncontroverted testimony of the claimant's witnesses and came to an erroneous finding that only because of the fact of involvement of two vehicles in the accident, there was contributory negligence on the part of the deceased. He submits that the finding of the Tribunal to the extent of attributing contributory negligence to the driver of the Ford Figo vehicle is liable to be set aside and the respondent No. 1 Insurance Company may be directed to pay the entire compensation amount of Rs.67,12,000/- along with interest, which was awarded by the Tribunal to the claimants. In support of his submission, the learned counsel for the appellants has cited the following rulings:

i. ***"Godawari Devi Sarma and Others Vs. United India Insurance Company Limited and Others"*** reported in ***2012 (4) GLT 516;***

ii. ***New India Assurance Company Limited Vs. Bithika Bairagi @ Pranjita*** reported in ***2025 Supreme (GAU) 1059.***

10. On the other hand, Mr. R. C. Paul, the learned counsel for the respondent No.1/Insurance Company has submitted that the Tribunal has rightly attributed contributory negligence to the driver of the Ford Figo vehicle, i.e., the deceased husband of the claimant No.1 in causing the accident in which he ultimately died. He submits that the Tribunal took into consideration of the evidence of the claimant No. 1, wherein she has deposed that her deceased husband was driving the Ford Figo car at a speed of about 80 kms per hour, which itself indicate that the Ford Figo car was driven by the deceased at a very high speed. He further submits that the MVI report in respect of the Ford Figo Vehicle shows that the vehicle suffered various damages due to accident including the damage of the rear right side body and front body. He further submits that most of the damage of the Ford Figo Vehicle was on the front side which itself indicate that due to high speed at which the vehicle was driven, the same could not be controlled after crossing Dichang Rajabari bridge and met with the accident.

11. The learned counsel for the Insurance Company submits that when two vehicles are involved in an accident, the normal conclusion would be that there is contributory negligence on the part of the drivers of the both vehicle and as such, the insurers of both the vehicles are liable to pay the compensation to the claimants in the equal proportion, i.e., 50:50. He therefore, submits that the Motor Accident Claims Tribunal was correct in attributing contributory negligence to

the deceased who was the driver of the Ford Figo Vehicle and thereafter, directing the respondent No.1 Insurance Company to pay only 50% of the compensation assessed by it, which is payable to the claimants. In support of his submission, the learned counsel for the respondent No.1 Insurance Company has cited the following rulings:

a. ***Smt. Bina Devi Vs. The New India Assurance Company Limited and Another*** (Judgement dated 13.10.2025 in MAC Appeal No. 91/2020);

b. ***Reliance General Insurance Company Limited Vs. Smt. Parul Hazarika and Others*** (Judgement dated 03.03.2022 in MAC Appeal No. 376/2018);

c. ***Bijoy Kumar Duggal Vs. Bidyadhar Dutta and Others*** reported in ***(2006) 3 SCC 242.***

12. I have considered the submissions made by the learned counsel for both sides and have gone through the materials available on record. I have also gone through the rulings cited by the learned counsel for both sides in support of their respective submissions.

13. The point to be determined in this appeal is as to whether the Motor Accident Claims Tribunal-cum-Additional District Judge No. 3 (FTC), Kamrup (Metro) has rightly attributed contributory negligence to the deceased Jagat Sonowal, who was the driver of the Ford Figo vehicle bearing Registration No. AS03-H-7422 for causing the accident in which said Jagat Sonowal expired, and whether the Tribunal was correct in making the respondent No. 1 Insurance Company liable to pay only 50% of the compensation awarded to the claimants by it.

14. On going through the impugned judgement and award, it appears that the Tribunal attributed contributory negligence to the deceased, i.e., the driver of the Ford Figo car only because the said vehicle was also involved in the accident. The evidence on record including the MVI reports exhibited as Exhibit-D and Exhibit-E clearly indicates that the Ford Figo vehicle sustained damage on the right side of the body and right side of the rear door. Merely, because damage was not caused on the back side of the Ford Figo vehicle, it cannot be held that it was not hit from the back side, when there is uncontroverted testimony of the eyewitnesses indicating that it was hit by the Tata Indica vehicle from backside. The damage caused to the Ford Figo Vehicle on the rear right side as well as damage caused to the Tata Indica vehicle mainly on the left side, when taken into consideration along with the uncontroverted testimony of eyewitnesses, it only leads to the conclusion that the Ford Figo vehicle was hit on the rear right side by the Tata Indica vehicle, as a result of which it fell into ditch causing death of the husband of claimant No.1. The opinion of DW-1 that the Ford Figo vehicle could not have been hit from behind by the Indica Car does not have any relevance in view of the clear evidence to the contrary on record, as discussed herein before.

15. The evidence on record clearly indicates that the accident took place at National Highway No. 37. It cannot be said that driving a car at a speed of 80 kms per hour on a National Highway may be considered, in itself, as an act of rash and negligent driving. It is normal to drive a car at such a speed on a National Highway, unless in some zones of National Highway speed restriction for plying of vehicles is provided for. If a car moving at a speed of 80 kms per hour is hit from behind on its

rear right side by another vehicle, it is natural for the driver of such a car to lose control of the said vehicle. Under such circumstances, in absence of any evidence to the contrary, it may not be held that the driver of the Ford Figo vehicle failed to take necessary precaution to avoid accident and that if such precaution would have been taken, the accident could have been avoided.

16. In the instant case, the evidence, i.e., the uncontroverted oral testimony of the claimant's witnesses (eye witnesses), the charge-sheet filed in the criminal case which was filed in connection with the accident and other materials on record clearly indicates that the driver of the Tata Indica Car was at fault for causing the accident and no credible evidence is there on record to suggest that there was any contributory negligence on the part of the driver of the Ford Figo car in causing the accident. As such, the finding of the Tribunal, in the impugned judgment, to the extent of attributing contributory negligence to the driver of the Ford Figo car is hereby set aside.

17. The Tribunal has assessed the quantum of compensation to which the claimants are entitled to as Rs. 67,12,000/-. The said assessment has not been challenged by the respondent No.1 Insurance Company. In view of the discussions made and finding arrived at in the foregoing paragraphs regarding absence of any contributory negligence on the part of the driver of the Ford Figo vehicle, i.e., the deceased, the respondent No.1 Insurance Company is liable to pay the entire compensation amount of Rs. 67,12,000/- along with interest at the rate of 6% per annum from the date of the filing of the claim petition to the claimants.

18. Since the respondent No.1 Insurance Company has already paid 50% of the aforesaid amount to the claimants, it shall pay the remaining outstanding dues of the awarded compensation to the claimants within a period of six weeks from the date of this judgment. The respondent No.1 Insurance Company shall deposit the said amount before the Registry of this Court within the aforesaid period. On such deposit being made, same shall be disbursed to the claimants after proper verification.

19. This appeal is, accordingly, allowed.

20. Send back the record of MAC Case No. 1299/2014 to the concerned Motor Accident Claims Tribunal along with a copy of the judgment.

JUDGE

Comparing Assistant

Munmun Boruah

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