

**IN THE MOTOR ACCIDENT CLAIMS TRIBUNAL : LAKHIMPUR :  
AT NORTH LAKHIMPUR.**

PRESENT : M.A. Choudhury,  
Member, M.A.C.T.  
Lakhimpur, North Lakhimpur.

**MAC CASE NO. 23 OF 2016.**

Sri Samarjyoti Gogoi. ... Claimant.

-Vs-

Oriental Insurance Company Ltd.,

Insurer of vehicle bearing registration  
No.AS.07.J/ 0447 (car). ... Opp. Party.

**Advocates appeared in the case :**

Mr. T. Das, Advocate. ... For the Claimant.

Mr. B. Gogoi, Advocate. ... For the Opp. Party No.3,  
Oriental Insurance Company Ltd.

Date of hearing Argument. : 26.11.2019.

Date of delivery of Judgment. : 07.12.2019.

**J U D G M E N T**

1. This Claim case arises out of a Petition filed by Sri Samarjyoti Gogoi u/s 163 (A) of the M.V. Act, 1988, claiming compensation for the injuries sustained by him in a motor vehicular accident on 01.03.2016 involving vehicle bearing registration No.AS.07.J/ 0447 (car), which was insured with Opp. Party No.3, Oriental Insurance Company Ltd.

2. The facts giving rise to this case is that on 01.03.2016 at about 10.30 pm, the claimant, Sri Samarjyoti Gogoi was coming to his house which is situated at Ward No.7, North Lakhimpur

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town from Bokanadi side by driving his own vehicle bearing registration No.AS.07.J/ 0447. At that time, his vehicle certainly met with an accident. As a result, one occupant of the vehicle sustained severe injuries and succumbed to the injuries on the spot. The claimant also sustained grievous injuries upon his person. Soon after the accident, the local people assembled and he was forwarded to North Lakhimpur Civil Hospital. As his condition was serious, he was taken to Gauhati Medical College Hospital, Guwahati from North Lakhimpur Civil Hospital where he underwent treatment as indoor patient. Regarding the accident, an ejarah was lodged with Dolohat Police Out Post under Laluk Police Station.

3. The Opp. Party, Oriental Insurance Company Ltd., the insurer of the offending vehicle bearing registration No.AS.07.J/0447 (car) contested the case by filing Written Statement.

4. The Opp. Party, Oriental Insurance Company Ltd. in its Written Statement besides denying all the averments made in the Claim Petition stated that there is no cause of action for this case and the case can not be proceeded against the Opp. Party. The claimant is the owner -cum- driver of the car bearing registration No.AS.07.J/ 0447 and he is not third party. So, the claimant is not entitled to get any compensation from the Insurance Company. In the Written Statement, it is also stated that the compensation claimed by the claimant side is excessive, exaggerated and having no real basis. The Insurance Company prays for dismissal of the case filed by the claimant side.

5. Upon the pleadings of both sides, the following points are found to be proved for just decision of the case:

1) Whether the claimant, Sri Samarjyoti Gogoi sustained injuries in the alleged motor vehicular accident dtd. 01.03.2016 involving vehicle bearing registration No.AS.07.J/ 0447 (car) and whether the said accident had taken place due to rash and negligent driving of the aforesaid vehicle of which the claimant is the owner ?

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II) Whether the claimant side is entitled to any compensation, and if yes, to what extent and by whom, the said compensation amount will be payable?

6. To prove the case, the claimant side examined 1 (one) witness. The Opposite Party side examined no witness.

7. Heard Argument from the learned advocates of both sides.

8. Perused the materials on record and upon consideration of the same, the Points are decided as under :

**POINT NO.1**

9. The claimant, Sri Samarjyoti Gogoi has been examined as Claimant Witness No.1. The claimant, Sri Samarjyoti Gogoi has averred in the Claim Petition and also stated in his evidence stated that on 01.03.2016 at about 10.30 pm, he was coming to his house, which is situated at Ward No.7, North Lakhimpur town from Bokanadi side by driving his own vehicle bearing registration No.AS.07.J/ 0447 (car). At that time, his vehicle certainly met with an accident and as a result, one occupant of the vehicle sustained severe injuries and succumbed to the injuries on the spot. He in his evidence stated that he also sustained grievous injuries upon his person. Soon after the accident, the local people assembled and he was forwarded to North Lakhimpur Civil Hospital. He in his evidence stated that as his condition was serious, he was taken to Gauhati Medical College Hospital from North Lakhimpur Civil Hospital where he underwent treatment as indoor patient. Regarding the accident, an ejahar was lodged with Dolohat Police Out Post under Laluk Police Station. In support of his oral evidence, he has submitted before the Tribunal the copy of the Accident Information Report being marked as Ext.1, attested copy of the Police Report being marked as Ext.2, Registration Certificate, Insurance Policy and MVI Report being marked as Ext.3, 4

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and 5 respectively, his Discharge Certificate from North Lakhimpur Civil Hospital being marked as Ext.6, Medical advice slips, cash memos and medical documents being marked as Ext.7 to Ext.32.

10. I have gone through the evidence of the claimant very carefully. From the evidence of the claimant, it is found that the claimant is the owner of the offending vehicle bearing registration No.AS.07.J/ 0447. From Ext.1, Accident Information Report, it is also found that the claimant is the owner as well as driver of the offending vehicle bearing registration No.AS.07.J/ 0447. The accident had happened while the claimant was coming by driving the offending vehicle bearing registration No.AS.07.J/ 0447 from Bokanadi towards his house and at that time, the accident had taken place. Due to the accident, he had sustained injuries upon different parts of his body and one occupant of the vehicle succumbed to the injuries. From his evidence, it is clear that in the accident, there is no involvement of any other vehicle except the vehicle bearing registration No.AS.07.J/ 0447 (car), of which the claimant himself was the owner and he himself was driving the same. The offending vehicle of the claimant has been insured with the Opp. Party, Oriental Insurance Company Ltd. and the claimant is claiming compensation from the insurer of his car bearing registration No.AS.07.J/ 0447 i.e., Oriental Insurance Company Ltd. The claimant had insured his offending vehicle bearing registration No.AS.07.J/ 0447 with the Oriental Insurance Company Ltd. in order to indemnify him by the Oriental Insurance Company Ltd. against any liability which may be incurred by him in respect of death or any bodily injury to any person.

11. In this case, the claimant has been injured by his own vehicle bearing registration NO.AS.07.J/ 0447 while he was driving the same and there was no involvement of any other vehicle in the accident. In such a situation, the claimant can not claim any compensation for the injuries sustained by him from the Opp. Party, Oriental Insurance Company Ltd., the insurer of his offending vehicle bearing registration No.AS.07.J/ 0447 as because he had insured his car

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with the Opp. Party, Oriental Insurance Company Ltd. in order to indemnify him by the Insurance Company against any liability which may be incurred by him. The sustaining of injury by the claimant in the accident involving the offending vehicle bearing registration No.AS.07.J/ 0447, of which he is the owner, does not call for any liability to be incurred by him and indemnified by the Opp. Party, Oriental Insurance Company Ltd..

12. Because of what have been discussed and pointed out here-in-above, it is appeared that though the claimant had sustained injuries in the motor vehicular accident, he is not entitled to get any compensation from the Opp. Party, Oriental Insurance Company Ltd., the insurer of his vehicle bearing registration No.AS.07.J/ 0447, of which he himself is the owner. Therefore, I find it a fit case to be dismissed.

### **ORDER**

13. I order that the claimant is not entitled to get any compensation from the Opp. Party, Oriental Insurance Company Ltd., the insurer of his vehicle bearing registration No.AS.07.J/ 0447 (car), of which he himself is the owner.

14. The case is dismissed on contest without cost.

15. Free copy of the Judgment be given to the both sides forthwith.

16. Given under my hand and seal of this Tribunal on this 7<sup>th</sup> day of December, 2019.

( M. A. Choudhury )  
Member, MACT,  
Lakhimpur, North Lakhimpur.

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Dictated & corrected by me -

( M.A.Choudhury )  
Member, MACT,  
Lakhimpur, North Lakhimpur.

Transcribed & typed by-  
Sri Satyabrata Kshattri, Stenographer.

### **APPENDIX**

1. WITNESSES EXAMINED BY THE CLAIMANT SIDE :

Claimant Witness No.1 - Sri Samarjyoti Gogoi, the claimant of the case.

2. WITNESSES EXAMINED BY THE OPP. PARTY SIDE :

NIL.

3. DOCUMENTS PRODUCED IN THE CASE BY THE CLAIMANT SIDE :

Ext.1 - Copy of Accident Information Report.

Ext.2 - Attested copy of Police Report.

Ext.3 - Registration Certificate of the offending vehicle bearing  
registration No.AS.07.J/ 0447.

Ext.4 - Insurance Policy of the offending vehicle bearing registration  
No.AS.07.J/ 0447.

Ext.5 - MVI Report.

Ext.6 - Discharge Certificate of the claimant from North Lakhimpur Civil  
Hospital.

Ext.7 to Ext.32 - Medical Advice slips, Medical Examination Reports,  
cash memos etc.

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4. DOCUMENTS PRODUCED IN THE CASE BY THE OPP. PARTY SIDE :  
Nil.

( M. A. Choudhury )  
Member, MACT,  
Lakhimpur, North Lakhimpur.

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