

IN THE COURT OF M. A. C. T. JUDGE, IN
PRESIDING OFFICER, M.A.C.T., GUWAHATI

M.A.C.T. CASE NO. OF 2019

IN THE MATTER OF:

SUBHASHIS GOGOI

PETITIONER

VERSUS

RUKMANI DEVI & ORS.

RESPONDENTS

MEMO OF PARTIES

SUBHASHIS GOGOI

S/O. TARUN CHANDRA GOGOI

PRESENTLY R/O H.NO. 2J-403, AWHO TOWNSHIP,

SECTOR CHI 01, GREATER NOIDA, UP-201308.

PERMANENT R/O QTR. NO.813/C, IOCL,

BONGAIGAON TOWNSHIP, P.O. DHALIGAON,

CHIRANG, ASSAM, INDIA-783385.

THROUGH HIS FATHER;

SH. TARUN CHANDRA GOGOI

PRESENTLY R/O H.NO. 2J-403, AWHO TOWNSHIP,

SECTOR CHI 01, GREATER NOIDA, UP-201308.

PERMANENT R/O QTR. NO.813/C, IOCL,

BONGAIGAON TOWNSHIP, P.O. DHALIGAON,

CHIRANG, ASSAM, INDIA-783385.

PETITIONER

VERSUS

1. SMT. RUKMANI DEVI

W/O SH. JAI PRAKASH

R/O H. NO. 272, 1ST FLOOR, CHURCH LANE,

JANGPURA, BHOGAL, DELHI-110014.

(OWNER)

(2)

2. SH. DHEERAJ CHAUHAN
S/O SH. OMPRAKASH CHAUHAN
R/O H. NO.16, CHURCH LANE,
JANGPURA, BHOGAL, DELHI-110014.

(DRIVER)

3. OLA CABS

Through Its Authorized Representative:

At: PLOT NO.521, UDHYOG VIHAR INDUSTRIAL AREA,
PH.III, GURUGRAM, HARYANA-122016.

(OWNER)

4. SH. ANANT KISHORE
S/O SH. NAND KISHORE
R/O H.NO.175, SHADI NAGAR, AZADPUR,
DELHI-110033.

(DRIVER)

5. NATIONAL INSURANCE CO. LTD.

OFFICE AT:

803, 8TH FLOOR, TOWER-C,
KONNECTUS BUILDING, OPP. NEW DELHI
RAILWAY STATION, BHAVBHUTI MARG,
DELHI-110002.

(INSURANCE CO.)

RESPONDENTS

Wangram

Sign.
Petitioner

Through

Dated: 16/3/19

Swikar
Counsel

(3)

IN THE COURT OF SH. S. K. DUGGAL, LD.
PRESIDING OFFICER, MACT, GURUGRAM

M.A.C.T. CASE NO. OF 2019

IN THE MATTER OF:

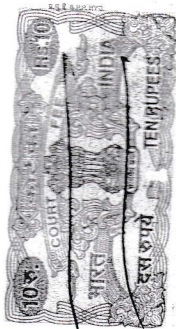
SUBHASHIS GOGOI

PETITIONER

VERSUS

RUKMANI DEVI & ORS.

RESPONDENTS



APPLICATION UNDER SECTION 166 & 140 OF THE MOTOR VEHICLE
ACT, 1968 OF GRANT OF COMPENSATION

Most respectfully showeth;

Sir,

- 1 Name and father's : SUBHASHIS GOGOI
Name of the person injured/ died S/O TARUN CHANDRA GOGOI
(husband's name in the case of married woman & widow)
- 2 Full Address of the : **PRESENTLY** R/O H.NO. 2J-
person dead/ 403, AWHO TOWNSHIP,
injured/ dead. SECTOR CHI 01, GREATER
NOIDA, UP-201308.
PERMANENT R/O QTR.
NO.813/C, IOCL,
BONGAIGAON TOWNSHIP,
P.O. DHALIGAON,
CHIRANG, ASSAM, INDIA-
783385.
- 3 Age of the person : About 27 years
injure/dead
- 4 Occupation of the : Working as Management
person injured/ trainee at Inflamm
dead. Appliances Limited,
Panchkula (Haryana)

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- 5 Name and address of employer the injured/ dead. Inflame Appliances Limited at: Khasra no.40/14-15-16-17/1 Village Bagwali, NH-73, District panchkula, Haryana-134205.
- 6 Monthly income of the person injured/ dead. Rs.30,000/- per month.
- 7 Does the person in respect of whom compensation is claimed pay income tax? No
- If so, state the amount of income tax (to be supported by the documents)
- 8 Place, date and time of accident : The accident took place near Metro station Sector 54, Gurugram on Dt. 07.11.2018 at about 02:00 A.M.
- 9 Name and address of the police station in whose jurisdiction the accident took place or was registered. : P.S. Sector 53, Gurugram, Haryana.
F.I.R. NO.0457 of 2018
U/s 279/337/338/427 I.P.C.
U/s 185/196 M.V. Act
- 10 Was the person in respect of whom compensation is claimed traveling by vehicle involved in accident? If so give the name and place of starting the journey and destination. Yes.
From I.S.B.T. Kashmiri Gate, Delhi to DLF, Ph.-5, Gurugram, Haryana.
- 11 Nature of injuries sustained Multiple & grievous injuries over Body, spinal injury, Neurological

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disorder.

- 12 Name and address of : After the accident the
the Medical / injured was taken to
Officer/ Artemis Hospital, Sector-
Practitioner, if 51, Gurugram, Haryana-
any who attended on 122001. Dr. Pawan Goyal
the injuries. (HN-1667)
- 13 Period of treatment : Approximately for 45 days
and expenditure if in hospital and treatment
any incurred. is still continues. In
Treatment expenditure of
in tune of Rs.25,00,000/-
appx. is incurred till
date.
- 14 Registration Number : 1. HR29-AE-6224
and type of vehicle Skoda car
involved in 2. DL1R-TC-1613
accident. Maruti Tour H2
- 15 Name of the owner : Respondent no.1 & 3
of the offending
vehicle.
- 16 Name of the driver Respondent no.2 & 4
of the offending
vehicle.
- 17 Name and address of NATIONAL INSURANCE CO.
Insurer of the LTD.
vehicle. (RESPONDENT NO.5)
- 18 Has any claim been No
lodged with the
owner/ insurer if
so, with what
result.
- 19 Name and address of As per details in title of
the applicant. the petition.
- 20 Relationship with Self
the deceased
injured.
- 21 Title of property N/A
of the deceased/

injured

22 Amount of Rs.1,25,00,000 (One Crore
compensation Twenty Five Lac Only)
claimed.

23 Any other The petitioner is on wheel
information that chair and is not able to
may be necessary move his limbs as he is
and helpful in the suffering from
disposal of the neurological disorder. He
case cannot eat from his own
and cannot talk properly.
He is also facing problem
of dementia or memory loss
and is not able to perform
his daily routine.

(1) That at the time of aforesaid accident, the injured was management trainee in Inflamm Appliances Limited at: Khasra no.40/14-15-16-17/1 Village Bagwali, NH-73, District panchkula, Haryana-134205. At that point of time he was getting salary of Rs.30,000/- per month. On the day of occurrence i.e. 07.11.2018 early morning (12:30 A.M.), the injured booked the taxi Maruti Tour car no.DL1R-TC-1613 owned by respondent no.3 to reach DLF. Ph.-5, Gurugram, Haryana. At about 02:00 A.M., when he reached Sector 54 Metro station, Gurugram, respondent no.2 came driving his Skoda car no.HR29-AE-6224 (owned by respondent no. 1) rashly and negligently from behind the car of respondent no.3 and hit the car of respondent no.3 from back. The collision was so forceful that car of respondent no.3 collided with the divider and due to said accident the respondent no. 4 received injuries over his body and the petitioner received severe bodily injuries on his head, hands and feet and became unconscious. Thereafter, the petitioner and respondent no.4 were taken out from the car by other peoples and they were admitted to Artemis

Hospital, Gurugram for treatment. The people who taken the petitioner out from the car also noticed the number of the offending vehicle of respondent no.1.. Since the respondent no.4 received nominal injuries he was discharged from the hospital after providing first aid, but the petitioner remained admitted in the hospital in very critical condition and the treatment of the petitioner is still continues. The petitioner remained admitted in hospital for 45 days and his treatment is still continues. Petitioner has incurred an expenditure of Rs.25,00,000/- (Rupees Twenty Five Lac) approximate on treatment till date and his treatment is still continues. His parents bring him to Indian Spinal Injuries Center (Vasant Kunj, Delhi) from Greater Noida, U.P. for treatment on daily basis. Due to the accident the petitioner is on wheel chair and is not able to move his limbs as he is suffering from neurological disorder. He cannot eat form his own and cannot talk properly. He is also facing problem of dementia or memory loss and is not able to perform his daily routine because of which his became jobless and is facing mental and physical pain and financial hardship.

- (2) That the accident took place due to the rash and negligent driving of the respondent No.2 who drove the offending car number HR29-AE-6224 at a very fast speed, rashly and negligently without caring for the traffic rules. No horn or signal was given by the respondent No.4 and the respondent No.4 also failed to keep proper lookout and did not observe the proper care and caution. The respondent No.2 & 4 could have avoided and avert this ferocious accident. If the respondent No.2 driven the offending vehicle at a slow speed, carefully, cautiously, and if he given the horn and applied the brakes at the relevant time, and the respondent

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no.4 took proper precautions, the occurrence could have been avoided. The respondent No.2 had driven his vehicle in violation of the traffic rules and is responsible for this ferocious accident along with respondent no.4 and hence, liable to pay the compensation to the petitioner. The offending vehicle no. HR29-AE-6224 is also not insured. The respondent no.2 i.e. driver of the offending vehicle no. HR29-AE-6224 was also drunk heavily at the time of accident.

- (3) That the respondent No.1 & 3 vicariously liable to pay the compensation being the owner of the offending vehicle.
- (4) That the respondent no.5 is also liable to pay the compensation being the insurance company of the said offending vehicle no. DL1R-TC-1613 and the offending vehicle was insured with the respondent No.5 on the date of the accident.

Although, no amount of compensation would be adequate to compensate the petitioner for the loss suffered on account of above said accident by the rash and negligent driving of the respondent no.2 & 4, yet the petitioner claiming and calculations the compensation on account of mental shock, financial loss, loss of job etc. to be Rs.1,25,00,000 (One Crore Twenty Five Lac Only)

P R A Y E R

It is therefore prayed that an award for a sum of Rs.1,25,00,000 (One Crore Twenty Five Lac Only) may kindly be passed along with the cost of the petition and interest @ 24% per annum from the date

(9)

of filing the petition till its realization in favor of the petitioner and against the respondents for the pain, inconvenience and discomforts caused to the petitioners.

It is further prayed that an interim award of Rs.10,00,000.00 (Rupees Ten Lac) may kindly be passed in favor of the petitioner and against the respondents, respondents be asked to deposit the said amount as per amended provisions of section 140 of M.V. Act.

Any other relief which this Hon'ble Tribunal deems fit in the facts and circumstances of the case may kindly be passed.

W. S. Ram

Gogi.
Petitioner

Through

Dated:

16/03/19

S. K. Singh
Counsel

VERIFICATION

Verified at Delhi on this 16 day of March 2019 that the contents of the above application are true and correct to my knowledge and belief.

Gogi.
Petitioner