

**BEFORE THE MEMBER, MOTOR ACCIDENT CLAIMS  
TRIBUNAL:NALBARI**

**Present: A.S.B. Laskar,**

**MAC Case No.150 (Injury) / 2017**

**Smt. Debajani Pradhan**

**D/O Late Krishna Bahadur Pradhan**

**Village: Deoduar**

**P.S. : Kamalpur**

**District : Kamrup (Assam) ----- Claimant.**

**-V E R S U S**

**1 .The Reliance General Insurance Co. Ltd.**

**2. Sri Naba Kumar Sarma**

**S/O Late Prafulla Kumar Sarma**

**Village: No.2 Mathgharia**

**P.S.: Noonmati**

**District: Kamrup (M) (Assam) -Owner**

**2. Sri Tapan Nath**

**S/O Late Jatin Nath**

**Village: Mushalpur**

**P.S.: Barbari**

**District: Baksa BTAD (Assam)- Driver. ----- Opp. Parties.**

**The Ld. Counsels Appeared:-**

**For the claimant:----- Sri RamenDas.**

**For the Opp. No.3:----- Sri Rajibeswar Bhattacharyya.**

**Date of Argument :----- 19.07.19.**

**Date of Judgment :-----25.07.19.**

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

**1. The facts leading to the institution of this case in brief is that on**

11.11.2008, at about 4.30 p.m, the claimant met with a road traffic accident on the NH 31 while the offending vehicle bearing registration No. AS-01-Z/3946 which was driven rashly and negligently and knocked her. In the accident, the claimant sustained injuries and she was taken to the GMCH, Guwahati. Subsequently the claimant was also treated in other hospitals.

**2.** Narrating the above stated facts in detail, the claimant instituted this case impleading the owner, rider and the insurer of the offending vehicle as opposite parties claiming compensation amounting to Rs.500000/-.

**3.** On receipt of the claim petition, same was admitted and notices were issued upon the opposite parties, but none except the opposite party No.1 made their appearance and contested the case. In its written statement, the opposite party No.1, the Reliance General insurance Company Ltd. challenged the maintainability of the case. The Company contended that the claims made by the claimant are frivolous. The Company also denied the averments made by the claimant and prayed for strict proof of the same.

5. Thereafter, going through the pleadings and hearing the parties, the following issues were framed by my Id. Predecessor-in-office:-

#### **Issues**

(i) Whether the claimant got injury on 11.11.2008 at about 4.30 p.m at Deoduar on 31 NH Way due to rash and negligent driving of the driver of the offending vehicle No. AS-01-Z/3946 (Bus) ?

(ii) Whether the claimant is entitled to get any compensation as prayed for, and if so, to what extent and from whom?

(iii) To what other relief or reliefs the claimant is entitled to?

#### **Decision & Reasons Thereof**

6. In this case neither party adduced their evidence. Though the claim petition was filed u/s 166/140 of the M.V. Act the claimant herself remained absent and abstained from adducing any evidence. In the absence of any evidence, I find nothing to hold that the accident as alleged had occurred due to rash and negligent driving by the rider of the

offending vehicle. As such, I hold that the claimant could not establish the rash and negligent driving by the rider of the offending vehicle. As the claimant could not establish the rash and negligent driving by the rider of the offending vehicle, the question of awarding compensation in her favour does not arise. Hence, the issues are decided against the claimant and accordingly the case is dismissed.

Given under my hand and seal of this Tribunal at Nalbari on this the 25th Day of July, 2019.

**Dictated & corrected by me.**

**Presiding Officer /Member**

**M.A.C.T Nalbari**

**Presiding Officer/ Member**

**M.A.C.T Nalbari**

#### **APPENDIX**

**Witness for the claimant:-**

Nil

**Witness for the opposite party**

Nil

**Documents exhibited by the claimant**

Nil.

**Documents exhibited by the opposite party**

Nil

**Presiding Officer/ Member,  
MACT, Nalbari**