

GAHC010109252024



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

Case No. : I.A.(Civil)/1723/2024

SUMI SAIKIA DUTTA AND 3 ORS.
W/O LATE MINTU DUTTA
RESIDENT OF VILLAGE GOPALPUR RANGAJAN, PO SIMALUGURI, PS
GOHPUR, DIST BISWANATH, ASSAM

2: SMTI SEUTI DUTTA
W/O SRI ROSHESWAR DUTTA
RESIDENT OF VILLAGE GOPALPUR RANGAJAN
PO SIMALUGURI
PS GOHPUR
DIST BISWANATH
ASSAM

3: SRI ANUPAL DUTTA
S/O LATE MINTU DUTTA
RESIDENT OF VILLAGE GOPALPUR RANGAJAN
PO SIMALUGURI
PS GOHPUR
DIST BISWANATH
ASSAM
TO BE REP. BY. PET. NO. 1

4: SMTI JOYASHREE DUTTA
D/O LATE MINTU DUTTA
RESIDENT OF VILLAGE GOPALPUR RANGAJAN
PO SIMALUGURI
PS GOHPUR
DIST BISWANATH
ASSAM
TO BE REP. BY. PET. NO.

VERSUS

TUSHAR SOOD AND 2 ORS

S/O LATE DINESH KR. SOOD C/O DEEP TRAVEL, PALTAN BAZAR,
GUWAHATI 781008, DIST KAMRUP M ASSAM, (OWNER OF THE VEHICLE
BEARING REGISTRATION NO. AS-01-CC-7339 BUS)

2:SRI HIRANYA SAIKIA
S/O SATRAPATI SAIKIA
RESIDENT OF VILLAGE BORIGAON
PO NARAYANPUR
784164
DIST LAKHIMPUR
ASSAM. (DRIVER OF THE VEHICLE BEARING REGISTRATION NO. AS-01-
CC-7339 BUS)

3:M/S NEW INDIA ASSURANCE COMPANY LIMITED
REPRESENTED BY ITS REGIONAL MANAGER
GS ROAD
BHANGAGARH
GUWAHATI 781005
DIST KAMRUP M ASSAM. (INSURER OF THE VEHICLE BEARING
REGISTRATION NO. AS-01-CC-7339 BUS) POLICY NO. 53070631170000001284

Advocate for the Petitioner : MR. P HAZARIKA,

Advocate for the Respondent : ,

Linked Case : I.A.(Civil)/1724/2024

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Advocate for : MR. P HAZARIKA
Advocate for : appearing for TUSHAR SOOD AND 2 ORS.

Linked Case : I.A.(Civil)/1725/2024

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Advocate for : MR. P HAZARIKA
Advocate for : appearing for TUSHAR SOOD AND 2 ORS.

Linked Case : MACApp./250/2022

SUMI SAIKIA DUTTA AND 3 ORS.
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GUWAHATI 781005
DIST KAMRUP M ASSAM

Advocate for : MR. P HAZARIKA
Advocate for : MR. R K BHATRA (r-3) appearing for DINESH KR. SOOD AND 2
ORS.

BEFORE

HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

28.08.2026

- 1.** Heard Mr. P Hazarika, the learned counsel for the applicants/ appellants. Also heard Ms. P Hujuri, the learned counsel for the respondent No. 3.
- 2.** The learned counsel for the applicants submits that in pursuant to the direction of this court, the respondent Nos. 1 and 2 were issued in the instant IA by substituted mode of paper publication and the applicants have also submitted an affidavit in compliance thereto.
- 3.** After going through the contents of the affidavit, the notices issued to respondent Nos. 1 and 2, by substituted mode of paper publication, are held to be duly served.
- 4.** This IAs i.e. IA (Civil) 1723/2024 has been preferred by the applicant/ claimant praying for condonation of delay of 381 days in filing the application for setting aside abatement of appeal as well as for filing substitution petition for substitution of legal heirs of deceased respondent No.1 in the connected MAC App No. 250/2022.
- 5.** The learned counsel for the applicant has submitted that the reasons for delay has been mentioned in paragraph Nos. 4 and 5 of the instant application.
- 6.** The learned counsel for the respondent No. 3 has raised no objection regarding the prayer for condonation of the delay.
- 7.** I have gone through the grounds stated in the instant IA for the delay caused in preferring the application for substitution as well as setting aside

abatement beyond the period of limitation.

- 8.** This court is of considered opinion that the applicants have been able to show reason for such delay. As such, delay of 381 days in filing the setting aside abatement of appeal as well as substitution petition on death of respondent No. 1 is hereby condoned and this IA is allowed.
- 9.** The IA (Civil) 1724/2024 has been filed by the applicants for setting aside abatement of appeal on death of respondent No. 1. The prayer is not opposed by the learned counsel for the other side. Considering the grounds stated in the para 4 of IA (Civil) 1724/2024, the prayer is allowed and the abatement of appeal against the respondent No. 1 on his death, is hereby set aside.
- 10.** The IA (Civil) 1725/2024 has been filed by the applicants/ appellant praying for substituting the legal heirs of respondent No. 1, namely, Tushar Sood, who is the son of respondent No. 1, Late Dinesh Kr. Sood.
- 11.** For the grounds stated in the instant application, the prayer is allowed. The name of legal heirs of deceased respondent No. 1 is allowed to be substituted in his place in the memo of appeal of the MAC App 250/2022 and this IA is accordingly allowed.
- 12.** The applicants/ appellant shall file the amended cause title in the connected appeal showing the name of Tushar Sood as respondent No. 1(i) therein.
- 13.** The IA (Civil) 1723/2024, IA (Civil) 1724/2024 and IA (Civil) 1725/2025 are accordingly disposed of.
- 14.** List the connected appeal after two weeks on a date to be fixed by the

Registry.

JUDGE

Comparing Assistant