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

**Case No. : MACApp./521/2019**

UNION OF INDIA AND 2 ORS  
REP. BY THE SECY. TO THE MINISTRY OF HOME AFFAIRS, GOVT.. OF  
INDIA, NEW DELHI-110001

2: INSPECTOR GENERAL  
SASHATRA SEEMA BAL  
FRONTIER HEAD QUARTER  
G.S.ROAD  
GHY-38

3: THE COMMANDANT  
23RD BN. S.S.B. BHAIRABKUNDA  
UDALGURI  
P.O. BHAIRABKUNDA  
DIST- UDALGURI  
ASSAM  
PIN- 78451

VERSUS

SMTI. ANSUMI BARO  
W/O- BHUPEN BARO @ GHUSUM BARO, R/O- VILL- BELGURI, P.O.  
MURMELA, VIA- PANERI, P.S. PANERI, DIST- UDALGURI, ASSAM, PIN-  
784521 (PERMANENT ADDRESS) AND (PRESENT ADDRESS) C/O- PUTULI  
TATI, KNOWARPARA, P.O. AND P.S. MANGALDOI, DIST- DARRANG,  
ASSAM, PIN- 784125

**Advocate for the Petitioner** : SC, C.G.C., MR. K K PARASAR

**Advocate for the Respondent** : MR. A BORUA, MS. P BHATTACHARYA

**::: PRESENT:::**

**THE HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

For the Appellants : Mr. K.K. Parasar,  
Advocate.

For the Respondents: Ms. P. Bhattacharyya,  
Advocate.

Date of Hearing : 06.06.2024.

Date of Judgment : 28.10.2024.

**JUDGMENT AND ORDER (CAV)**

Heard Mr. K.K. Parasar, learned counsel representing the appellants as well as Ms. P. Bhattacharyya, learned counsel appearing for the sole respondent.

2. This is an appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment and award dated 23.04.2019 passed by the learned Member, Motor Accident Claims Tribunal, Darrang, Mangaldai in MAC (D) Case No.57/2017.

3. On 19.11.2009 at about 7 P.M., late Bhupen Baro @ Ghusum Baro was riding a bicycle at Bagpuri Tiniali Chowk under Tangla Police Station. At that time, a Sashastra Seema Bal (SSB) vehicle hit him from behind. As a result of which, Bhupen Baro @ Ghusum Baro died on the spot. An FIR was lodged and Tangla P.S. Case No.83/09 was registered. The deceased was a businessman by profession and was earning an amount of ₹10,000/- per month. He was 30 years old and left behind his wife and one minor son.

4. A claim petition seeking compensation was filed. The claimant stated in her evidence that one SSB vehicle had caused the accident leading to the death of her husband. She examined two other witnesses namely, Dejit Rabha and Ramesh Baro.

5. Dejit Rabha stated in his evidence that he has a grocery shop near the place of occurrence. He has stated that one SSB vehicle which was going towards Bhergaon in a very high speed, had hit the bicycle of the deceased. He claimed to be an eye witness to the said occurrence. On the other hand, the witness Ramesh Baro has stated that at the relevant time of occurrence, he was in his home and he was informed by Dejit Rabha about the said accident.

6. The present appellants examined one witness named Mr. Kaikho Athikho. At that time he was serving in the 23<sup>rd</sup> Battalion of SSB Lalpool. He has stated in his evidence that on 19.11.2009, the officer-in-charge of Tangla Police Station had informed the 23<sup>rd</sup> Battalion of SSB that an accident had taken place and for that matter a case being Tangla P.S. Case No.83/2009 was registered. This witness has stated that the place where the accident took place, was outside the jurisdiction of 23<sup>rd</sup> Battalion. He claimed that no vehicle of 23<sup>rd</sup> Battalion of SSB had gone to that area on 19.11.2009 and therefore, the 23<sup>rd</sup> Battalion of SSB is not liable for the accident.

7. However, on conclusion of hearing, the learned Tribunal allowed the prayer of the claimant and awarded a sum of ₹14,57,732/- as compensation.

8. Aggrieved by the aforesaid judgment, the appellants filed the present appeal.
9. The only ground taken by the appellants is that no vehicle of 23<sup>rd</sup> Battalion of SSB stationed at Bhairabkunda was involved in the said accident dated 19.11.2009.
10. I have gone through the evidence available in the records.
11. Admittedly, Smti Ansumi Baro never saw the accident. In his cross-examination, the witness Dejit Rabha has stated that he identified the vehicle to be an SSB vehicle by seeing the hood of the vehicle. The witness Ramesh Baro is also not an eye witness to the occurrence.
12. Mr. Parasar has submitted that all SSB vehicles have a particular colour and that colour is used by some private vehicles also. Mr. Parasar submits that the place where the accident took place, is outside the jurisdiction of 23<sup>rd</sup> Battalion of SSB and therefore, no vehicle belonging to that Battalion is allowed to go outside the jurisdiction.
13. Ms. Bhattacharyya has submitted that since death of the deceased in the accident is an admitted fact, the Tribunal has correctly allowed the claim petition because under Section 163A of the Motor Vehicles Act, the claimant is not required to plead or establish that the death or permanent disability in respect of which a claim has been made was due to any wrongful act or negligence or fault of the owner of the vehicle concerned.
14. I have considered the submissions made by the learned counsel of both sides.
15. In the written statement filed by the appellants, it was claimed that 23<sup>rd</sup> Battalion of SSB has jurisdiction from Bhairabkunda to Lalpool only. It further claimed that no vehicle belonging to this Battalion goes to the place of occurrence which is outside its jurisdiction.
16. In spite of that, no specific issue to that effect was framed by the Tribunal. Every SSB vehicle has a specific registration number. Moreover, many private vehicles may look like an SSB vehicle. Having the colour of an SSB vehicle, does not mean that all such vehicles belong to SSB. The learned Tribunal did not discuss this issue.
17. In this case, there is no evidence at all to hold that an SSB vehicle belonging to 23<sup>rd</sup> Battalion of SSB was involved in the said accident wherein the husband of the claimant lost his life. The evidence of the eye witness Dejit Rabha is also shaky because in his cross-examination he has stated that in the winter afternoon the light was low but faces of persons could be identified in that condition. He said that he identified the vehicle to be an SSB vehicle after seeing its hood.
18. Such evidence does not inspire confidence. It is true that the provisions regarding payment of compensation to motor vehicle accidents are beneficial legislations. Law of evidence is not strictly applicable in such cases. But that does not mean that without any evidence, claim petitions should be allowed. It must be ascertained first as to which vehicle had caused the accident and after that the owner of the said vehicle shall be asked to pay the compensation. A vehicle not involved in a motor accident cannot be saddled with the liability to pay compensation to a victim of motor vehicle accident. In the case in hand, it is not proved that a vehicle belonging to 23<sup>rd</sup> Battalion of SSB was involved in the accident where the deceased lost his life. Therefore, the 23<sup>rd</sup> Battalion of SSB cannot be held liable to pay compensation to the claimant.
19. The learned Tribunal had erroneously appreciated the evidence available in the record and arrived at an incorrect finding.
20. The appeal is allowed accordingly. The judgment and award dated 23.04.2019 passed by the learned Member, Motor Accident Claims Tribunal, Darrang, Mangaldai in MAC (D) Case No.57/2017

is set aside.

Send back the LCR.

**JUDGE**

**Comparing Assistant**