

GAHC010286562018



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

**Case No. : MACApp./43/2019**

SMTI KRIPA BARLA (NAG) AND 2 ORS  
W/O- LATE GANESH BARLA, R/O- NO.3 DHANSIRI TEA ESTATE, P.O AND  
P.S- MAZBAT, DIST- UDALGURI, BTAD, ASSAM, PIN- 784507

2: MONIDEEP BARLA (NAG)  
S/O- LATE GANESH BARLA  
BEING REP BY PETITIONER NO. 1  
R/O- NO. 3  
DHANSRI TEA ESTATE  
P.O AND P.S- MAZBAT  
DIST- UDALGURI  
BTAD  
ASSAM  
PIN- 784507

3: SANDEEP BARLA (NAG)  
S/O- LATE GANESH BARLA  
BEING REP BY PETITIONER NO. 1  
R/O- NO. 3  
DHANSRI TEA ESTATE  
P.O AND P.S- MAZBAT  
DIST- UDALGURI  
BTAD  
ASSAM  
PIN- 78450

VERSUS

UNITED INDIA INSURANCE COMPANY LIMITED AND 2 ORS  
REP. BY ITS CHIEF REGIONAL MANAGER, REGIONAL OFFICE, CHRISTIAN  
BASTI, GUWAHATI- 05

2:GENERAL MANAGER  
DHANSRI TEA ESTATE

MAZBAT  
P.O AND P.S- MAZBAT  
DIST- UDALGURI  
BTAD  
ASSAM  
PIN- 784507

3:MANTOO KHOIRA  
S/O- CHAITAN KHOIRA  
R/O- PATHAKPUR  
DIST- UDALGURI  
BTAD  
ASSAM  
PIN- 78450

**Advocate for the Petitioner** : MR. S K MUKTAR

**Advocate for the Respondent** : MR. R GOSWAMI

**BEFORE  
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

**JUDGMENT**

**Date : 10-12-2021**

Heard Mr. S. K. Muktar, learned counsel appearing for the appellants as well as Mr. R. Goswami, learned counsel representing the respondents.

2. This is an appeal under Section 173 of the Motor Vehicles Act against the Judgment and Award dated 28.09.2018 passed by the MACT No. II, Kamrup (M), Guwahati in MAC Case No. 2164/2015.

3. The very short question involved in this appeal is as to whether a road inside a tea garden area is a 'public place' as defined by Section 2(34) of the Motor Vehicles Act.

4. The Tractor bearing Registration No. AS-27-A-0067 belonging to the respondent no. 2 company, caused the death of the deceased. The said accident took place in a road inside a tea garden. The Tribunal held that since the accident took place

inside a tea garden, the place of the accident does not fall within the definition of 'public place' as defined in Section 2 (34) of the M.V. Act and that is why the Tribunal relieved the insurance company from its liability to pay compensation. Instead, the Tribunal directed the respondent tea company to pay the compensation.

5. Section 2 (34) of the M.V. Act reads as under:

“(34) “public place” means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a stage carriage”.

6. Many High Courts in India have already explained the term 'public place' in different judgments. In *Ram Bilas v. Nitya Nand* AIR 1922 All 542, it was held that when a public have access to a place without their access being refused or interfered with that place is a public place, whether the public have a right to go there or not. The accused were found gambling in a grove, which was private property but was used by the public on the occasion of fairs without interference and the visitors on such occasions presented all parts of the grove.

7. On 20<sup>th</sup> June 2002, in *Pinnaboyina Chittamama And Ors. Vs B. Narasingarao and Ors*, the Andhra High Court has dealt with the term “public place”, as defined in the Motor Vehicle Act, in the following way ---

“In *Reg. v. Wellard* (1884) 14 QBD 63, Lord Coleridge, C.J. enunciated the principal that a place is a public place though it is private property when it is shown that the public are in the habit of resorting to the place, and no one prevented them from so resorting to it. The prisoner was convicted of indecently exposing his person to divers subjects of the Queen in a certain public place, upon evidence showing that the place in question was out of sight of the public footpath, but was a place to which the persons were in the habit of going without having any strict legal right so to do, and that persons so going were never in any way hindered or interfered with. Grove, J., said that a public place is one where the public go, no matter whether they have a right to go or

not. The same view was adopted by Madras High Court in Emperor v. Musa 40 Mad 556. It was said that a place was a public place where public were in the habit of resorting to do and no one prevented them from doing it, no matter whether they have a right to go there or not. However, it is to be noted that the application of principle depends on the facts of a particular case.

In a State of Kerala v. Cheriah Seca-riah, the learned single Judge following the principal laid down in Wellards case (1884) 14 QBD 63, held that to constitute a public place, it is not necessary that the place should be a public property, but if it is a private property, it must be proved not only the public could have access to it, but is a place to which members of the public in fact resort.

Following the decision in wellards case (1884) 14 QBD 63, it was held in Emperor v. Govindarajulu AIR 1916 Mad 474, that a legal right to access by the public is not necessary to constitute a public place and that a public place is one which is resorted to by the public whether they have a right to go or not. It was held in that case that persons who were found guilty of disorderly behavior in the harbor premises could be convicted for an offence under Section 75 of Madras City Police Act, as the harbour premises constitute a place of public resort."

8. Every road or street, way or a thoroughfare to which public have a right to use is a public place. Tea estates cover a large swathe of land. There are many roads inside the tea gardens. Many people normally travel through those roads. In fact, any place which is accessible to the public is a public place. If a paddy field is accessible to the public, it is also a public place within Section 2(34) of the Motor Vehicles Act.

9. This Court is of the opinion that the learned Tribunal has erroneously understood the definition of 'public road' as given in the Section 2(34) of the M.V. Act.

10. The provisions of the M.V. Act pertaining to the payment of compensation to the victims of motor accidents are beneficial legislation. While interpreting the definitions of the M.V. Act, which are related to payment of compensation to motor

accident victims, the courts are required to bear in mind the legislative intention behind enactment of those provisions. Therefore, the Tribunals are supposed to take liberal approach while interpreting the connected provisions of law. This is the reason why, Tribunals are constituted for dealing with claim cases pertaining to motor accident. If the Tribunals start to interpret the said provisions in such a strict manner like a Court of law, the legislative intent behind those provisions would be frustrated. Not only that, the very purpose of constitution of the Motor Accident Claims Tribunals would get frustrated.

11. For the aforesaid premised reasons, the appeal is allowed. It is the concerned Insurance Company that is liable to pay compensation. The respondent Insurance Company is directed to pay the compensation as directed by the Tribunal. The other terms like making fix deposit shall remain as it is.

12. It is also directed that if any deviation from the policy conditions are detected after payment of compensation, the Insurance Company shall be at liberty to recover the compensation from the respondent tea company.

13. The appeal is disposed of. Send back the LCR.

**JUDGE**

**Comparing Assistant**