

**IN THE HIGH COURT OF SIKKIM
CIVIL APPELLATE JURISDICTION**

I. A. No.

(Arising out of M. A. C. App. No. 04 OF 2016)

02

OF

2016

The Branch Manager,
ICICI Lombard General Insurance,
Having its Branch Office at
1st Floor, Sona Wheels, Third Mile,
Sevoke Road, Siliguri – 734 008,
West Bengal.

----- Appellant.

-VERSUS-

1. Mrs. Meena Tamang (Chettri),
W/o Late Arjun Singh Kharka,
R/o Lingmoo Tokday,
P. O. Lingmoo Kolthang & P. S. Ravangla,
South Sikkim.

2. Master Amann Kharka,
S/o Late Arjun Singh Kharka,
R/o Lingmoo Tokday,
P. O. Lingmoo Kolthang & P. S. Ravangla,
South Sikkim.

----- Respondents.

PETITIONER

ADVOCATE (S)

FOR ----- Mr. Thupden G. Bhutia.

RESPONDENT

ADVOCATE (S)

FOR -----

IA No. 02/2016
Arising out of MAC App. No. 04/2016
Branch Manager, ICICI Lombard General Insurance
vs.
Meena Tamang (Chettri) & Anr.

BEFORE
MR. JUSTICE SATISH K. AGNIHOTRI, CJ

18. 22.11.16 Present: Mr. A. K. Upadhyaya, Sr. Advocate with Mr. Thupden G. Bhutia, Advocate for the Petitioner.

Mr. K.B. Chettri, Advocate for the Respondents.

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This is an application seeking refund of residual amount deposited by the appellant-insurer. Mr. A. K. Upadhyaya, learned Sr. Counsel appearing for the appellant-insurer submits that this Court while disposing of MAC App. No. 04/2016 between the parties on 02.09.2016, held that the respondents shall be entitled to a sum of Rs.2,00,000/- (Rupees two lakhs) under the Personal Accident Cover (PAC) payable forthwith. The Court below awarded the total compensation to the tune of Rs.63,28,312/- (Rupees sixty three lakhs twenty-eight thousand three hundred and twelve) and a sum of Rs.50,000/- (Rupees fifty thousand) paid earlier was adjusted and finally the total sum of Rs.62,78,312/- (Rupees sixty two lakhs seventy-eight thousand three hundred and twelve) with interest was awarded to the claimants/respondents herein.

However, as directed earlier, the entire amount of compensation to the tune of Rs. 62,78,312/- (Rupees sixty

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two lakhs seventy-eight thousand three hundred and twelve) was deposited. Thus, the appellant-insurer is entitled to refund of the said amount after deducting Rs.1,50,000/- (Rupees one lakh fifty thousand), which being the balance amount payable to the respondents.

Having examined the order dated 02.09.2016 rendered in MAC App. No. 04/2016, the Registry is directed to refund the balance amount of Rs.61,28,312/- (Rupees sixty one lakhs twenty eight thousand three hundred and twelve) to the appellant-insurer on proper verification. The respondents are entitled to collect the balance amount of Rs.1,50,000/- (Rupees one lakh fifty thousand) as awarded to them in the order dated 02.09.2016.

The application stands allowed.

Chief Justice
22.11.2016

jk/to **Index : Yes / No**
Internet : Yes / No