
(2006) 09 GAU CK 0021

Gauhati High Court (Imphal Bench)

Case No: Regular First Appeal No. 02 of 2002 and Original Money Suit No. 4 of 1992

Shio Narayan Prasad

APPELLANT

Vs

Oriental Insurance Co.
Ltd. and Others

RESPONDENT

Date of Decision: Sept. 15, 2006

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 9
- Motor Vehicles Act, 1988 - Section 140, 146, 147, 147(5), 158(6)

Citation: (2006) GLT 91 Supp

Hon'ble Judges: T.N.K. Singh, J

Bench: Single Bench

Advocate: H.N.K. Singh, Kh. Babulindro Singh and I. Jayanta Singh, for the Appellant; Joy Deep Nath, for the Respondent

Final Decision: Allowed

Judgement

T.N.K. Singh, J.

Heard Mr. H.N.K. Singh, learned Sr. Advocate assisted by Mr. Kh. Babulindro Singh and Mr. I. Jayanta Singh, learned Advocate appearing on behalf of the Appellant as well as Mr. Joy Deep Nath, learned Advocate appearing for the Respondents.

2. The unsuccessful Plaintiff preferred this appeal against the judgment and decree dated 31.03.2001 passed in Original (Money) Suit No. 4 of 1992 of the Court of Civil Judge, Sr. Division No. 1, Manipur East dismissing the Original (Money) Suit No. 4 of 1992 filed by the Appellant/Plaintiff for recovery of a sum of Rs. 1,20,000/- (Rupees one lakh twenty thousand) from the Principal Respondent/ Defendant No. 1, Oriental Insurance Company Ltd., only on the issue that the suit is barred by the provisions u/s 175 of the Motor Vehicles Act, 1988.

3. Background facts:

(a) The Appellant/Plaintiff is a registered owner of Tata Truck bearing Registration No. MN-01/3131, Chassis No. 344073226130, Engine No. 69-DO 1234141. Admittedly the said Tata Truck of the Appellant/Plaintiff had been insured with the principal Respondent/Defendant No. 1, Oriental Insurance Company Ltd., by paying necessary premium to cover all risks under the Motor Vehicles Act 1988.

(b) The principal Respondent/Defendant No. 1 also issued Certificate of Insurance dated 05.04.1991 for insuring the said Tata Truck of the Appellant/Plaintiff (Ext. A/8). In the said Certificate of Insurance dated 05.04.1991, it has been mentioned very clearly that the liability limit of the Insurer (i.e. principal Respondent/Defendant No. 1) for the said Tata Truck of the Appellant/Plaintiff in the vehicular accident would be as per the Motor Vehicles Act, 1988.

(c) Further, the terms and conditions of the Insurance Policy are that:

(i) Liability to third parties would be subject to the limit of liability as laid down in the Motor Vehicles Act and the Company (principal Respondent/Defendant No. 1) will indemnify the insured (Appellant/Plaintiff) in the event of accident caused by or arising out of the use of the Motor Vehicle (insured vehicle) anywhere in India against all sums including claimant's cost and expenses which the insured shall become legally liable to pay in respect of death of or bodily injury to any person and/ or damage to any property of Third Party;

(ii) The Company will also pay all costs and expenses incurred with its written consent;

(iii) Notice shall be given in writing to the Company immediately upon the occurrence of any accident and in the event of any claim. Every letter, claim, writ, summons, and/or process shall be forwarded to the Company immediately on receipt by the Insured. Notice shall be given in writing to the Company immediately the Insured shall have knowledge of any impending prosecution inquest or Fatal Inquiry in respect of any accident which may give rise to claim under this Policy;

(iv) No admission, offer, promise, payment, or indemnity shall be made or given by or on behalf of the insured without the written consent of the Company which shall be entitled if it so desires to take over and conduct in the name of the Insured the defence or settlement of any claim or to prosecute in the name of the Insured the defence or settlement of any claim or to prosecute in the name of the Insured for its own benefit any claim for indemnity or otherwise and shall have full discretion in the conduct of any proceedings or in the settlement of any claim the Company may require. If the Company shall make any payment in settlement of any claim and such payment includes any amount not covered by this Policy the Insured shall repay to the Company the amount not so covered; etc etc.

(d) Chapter-XI of the Motor Vehicles Act, 1988 deals with the Insurance of Motor Vehicles against Third Party's risk. The requirements for Insurance against Third Party are

mentioned in Section 146 of the Motor Vehicles Act 1988. Section 147 of the Motor Vehicles Act 1988 mentions the statutory liability of the Insurer (Insurance Company); and Sub-section (5) of Section 147 clearly mentions that "Notwithstanding anything contained in any law for the time being in force, an insurer issuing a policy of insurance under this Section shall be liable to indemnify the person or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of that person or these classes of persons." Under the terms and conditions of the Insurance Policy of the Appellant/Plaintiff for the said Tata Truck with the Insurer principal Respondent/ Defendant No. 1, it is clear that the principal Respondent/Defendant No. 1 shall be liable to indemnify the person(s) or classes of persons specified in the policy in respect of the any liability in the case of dead person(s) or class of persons.

(e) The said Tata Truck of the Appellant/ Plaintiff met an accident on 29.11.1991 at about 9 P.M. in between Maram village and Mao Village on National Highway No. 39-Imphal-Dimapur Road and in that vehicular accident one young man, namely, Shri Ningthoujam Raghumani Singh, aged about 36 years was injured and succumbed to his injury at the spot. The proforma Respondent No. 2 is the wife of the deceased, Ningthoujam Raghumani Singh and proforma Respondents/Defendants 3 to 9 are their children. Proforma Respondent/Defendant No. 2, Smt. Ningthoujam Ongbi Thaba Devi demanded a sum of Rs. 1,40,000/- (Rupees one lakh forty thousand) in cash as compensation for the loss of life of her husband in the said vehicular accident of the Appellant/ Plaintiff's Tata Truck being Regn. No. MN-01/3131 which is admittedly insured with the principal Respondent/Defendant No. 1, Oriental Insurance Company Ltd.

(f) The Appellant/Plaintiff also as per the terms and conditions of the said Insurance Policy served notice in writing under letter dated 02.12.1991 to the Insurer (Principal Respondent/Defendant No. 1) about the occurrence of the vehicular accident of the said vehicle (i.e. Tata Truck having Regn. No. MN-01/3131) on 29.11.1991 in which the said Ningthoujam Raghumani Singh was killed and also the claim made by the proforma Respondent/Defendant No. 2 for payment of compensation for the loss of life of her husband in the said vehicular accident In response to the said letter/notice dated 02.12.1991 of the Appellant/Plaintiff, Assistant Branch Manager of the Principal Respondent/Defendant No. 1 under his letter dated 02.12.1991 informed the Appellant/Plaintiff that the Company is sending the claim form which is to be returned to the Company after duly filled in alongwith the documents mentioned in the said letter. In the meanwhile the Appellant/Plaintiff being a non-Manipuri could not tackle the heavy pressure for payment of the compensation for the death of Shri Ningthoujam Raghumani Singh in the said vehicular accident, by the proforma Respondent/Defendant No. 2 with the assistance of the local men and accordingly having no alternative Appellant/ Plaintiff through his counsel again served a letter dated 10.12.1991 requesting the principal Respondent/Defendant No. 1 to come into the picture in bringing the peaceful settlement and negotiations in the matter of payment of compensation for the death of Shri Ningthoujam Raghumani Singh in the said vehicular accident. In the said letter dated

10.12.1991 to the principal Respondent/ Defendant No. 1, it is clearly mentioned that the Appellant/Plaintiff is not capable of defying the pressure of furious legal heirs of the deceased (late Ningthoujam Raghumani Singh) as the Appellant/Plaintiff is a non-Manipuri (Bihari) and also the Appellant/ Plaintiff further requested the principal Respondent/Defendant No. 1 to extend cooperation in bringing settlement and negotiations with the furious legal heirs of the deceased Late N. Raghumani Singh. In spite of such requests and notice as per the terms and conditions mentioned in the Insurance Policy the principal Respondent/Defendant No. 1 did not come out for settlement of the claim for compensation made by the proforma Respondent/Defendant No. 2 for compensation for the death of Late Ningthoujam Raghumani Singh in the said vehicular accident on 29.11.1991; and having no alternative the Appellant/Plaintiff had entered into settlement or/agreement of compromise dated 12.12.2001 for payment of Rs. 1,20,000/- (Rupees one lakh twenty thousand) which would certainly be less than the amount of compensation would be awarded by the Claims Tribunal in the event of filing claim u/s 163A or 166 of the Motor Vehicles Act, 1988 by the legal heirs of the deceased, late Ningthoujam Raghumani Singh, to the proforma Respondent/Defendant No. 2.

(g) As the principal Respondent/Defendant No. 1 failed to indemnify the Appellant/ Plaintiff against the said amount of Rs. 1,20,000/- (Rupees One lakh twenty thousand) paid by the Appellant/Plaintiff as compensation for the loss of life of Late Ningthoujam Raghumani Singh in the said vehicular accident of the said Tata Truck having Regn. No. MN-01/3131, which is admittedly insured with the proforma Respondent/Defendant No. 1, the Appellant/ Plaintiff filed the present Original (Money) Suit No. 4 of 1992 in the Court of Civil Judge, Sr. Division No. 1, Manipur East for recovery of a sum of Rs. 1,20,000/- (Rupees one lakh twenty thousand) from the principal Respondent/Defendant No. 1. In that Original (Money) Suit No. 4 of 1992, the proforma Respondent/Defendant No. 2 to 9 are also the proforma Respondent/Defendants 2 to 9.

(h) Principal Respondent/Defendant No. 1 filed written statement in the Original (Money) Suit No. 4 of 1992. In the written statement, principal Respondent/Defendant No. 1 admitted that the said Tata Truck of the Appellant/Plaintiff bearing Registration No. MN-01/3131 is insured with the principal Respondent/Defendant No. 1 to cover Third Party risk under the Motor Vehicles Act. In the written statement, the principal Respondent/Defendant No. 1 specifically stated that by the Insurance Policy as had been issued to the Appellant/Plaintiff, the principal Respondent/Defendant No. 1 insured specified class of person/persons, namely, Third Party to indemnify the Third Party and to pay compensation to the injured person/persons having sustained injuries out of the motor accident caused out of the use of the insured vehicle to the Defendant/legal heirs of the deceased person(s) having died on the public road out of the motor accident out of the use of the insured vehicles and to indemnify and to pay compensation to such person/persons as per the terms and conditions of the insured Insurance Policy and strictly and exclusively as per the requirements of the Motor Vehicles Act, 1988 and as per the provisions as laid down u/s 140 and 147 of the Motor Vehicles Act, 1988 and that

also on the basis of an award passed by the Competent Motor Vehicle Accident Claims Tribunal passed u/s 140 and 168 of the Motor Vehicles Act, 1988. In the written statement of the principal Respondent/ Defendant No. 1, it is the clear case of the principal Respondent No. 1 that the principal Respondent/Defendant-1 is to indemnify the Appellant/Plaintiff only against the award passed by the Competent Motor Vehicle Accident Claims Tribunal and not against any payment made by the Appellant/Plaintiff to fulfill the claim for the lost of life of a Third party in a vehicular accident arising out of the use of the insured vehicles, i.e. the said Tata Truck having Regn. No. MN-01/3131 on the public road and also that the Original (Money) Suit is also barred by Section 175 of the Motor Vehicles Act, 1988. As such it is the case of the principal Respondent/Defendant No. 1 that the Civil Court has no jurisdiction to entertain the present Original (money) Suit.

(i) The learned Trial Court framed following issues:

1. Whether the insured Tata Truck bearing Registration No. MN-01-3131, Chassis No. 344073226130, Engine No. 69-DO 1234141 was involved in an accident on 29.11.1991 at 9 pm. in between Maram village and Mao village on National Highway No. 39 Imphal Dimapur road? If so whether a young man namely Ningthoujam Raghmani Singh aged about 36 years succumbed to the injuries at the spot?
2. Whether principal Defendant, Oriental Insurance Co. Ltd. is bound to pay compensation of Rs. 1,20,000/- for the death of the said Raghmani Singh according to the terms and conditions of the Insurance Policy bearing No. 322606/1/25/01-91-92 dated 5th April 1991 to the Plaintiff?
3. Is the suit barred by the provision u/s 175 of the Motor Vehicle Act?
4. Whether the Plaintiff has no locus standi to file this suit.
5. Is there cause of action in the suit?
6. Is the Plaintiff entitled to the relief claimed?

(j) The learned Trial Court took up only the issue No. 3, "Is the suit barred by the provision u/s 175 of the Motor Vehicles Act?", for decision and passed the impugned judgment and decree dated 31.03.2001 that the Civil Court, i.e. the Civil Judge, Senior Division No. 1, Manipur East, has no jurisdiction to take up the present Suit, i.e., Original (Money) suit No. 4 of 1992, as the jurisdiction of the Civil Court is expressly barred by Section 175 of the Motor Vehicles Act, 1988 and accordingly dismissed the Suit. Hence the Appellant/Plaintiff filed the present Appeal.

4. Claims under the Motor Vehicles Act before the claims tribunal and bar on the jurisdiction of the Civil Court in Chapter-XI of the Motor Vehicles Act, 1988.

Under Section 165 of the Motor Vehicle Act, 1988 the State Government by a notification in the official gazette constitutes one or more motor accident tribunal(s) for such area as may be specified in the notification for the purpose of adjudicating upon claims for compensation in respect of accident involving the death of or bodily injury to, persons arising out of the use of the motor vehicles, or damage to any property of a third party so arising, or both. Section 166 of the Motor Vehicles Act, 1988 specifies the persons who could be the claimant/applicant for an application for compensation arising out of the use of the vehicle in an accident for the nature specified in Sub-section (1) of Section 165. For easy reference, Sections 165 and 166 are quoted hereunder:

165 Claims Tribunal.

(1) a State Government may, by notification in the Official Gazette, constitute one or more Motor Accidents Claims Tribunals (hereafter in this Chapter referred to as Claims Tribunal) for such area as may be specified in the notification for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both.

Explanation- For the removal of doubts, it is hereby declared that the expression "claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles" includes claims for compensation u/s 140 and Section 163A

(2) A Claims Tribunals shall consist of such number of members as the State Government may think fit to appoint and where it consists of two or more members, one of them shall be appointed as the Chairman thereof.

(3) A person shall not be qualified for appointment as a member of a Claims-Tribunal unless he:

(a) is, or has been; a Judge of High Court, or

(b) is, or has been, a District Judge, or

(c) is qualified for appointment as a Judge of a High Court [or as a District Judge].

(4) where two or more Claims Tribunals are constituted for any area, the State Government may by general or special order, regulate the distribution of business among them.

166. Application for Compensation

(1) An application for compensation arising out of an accident for the nature specified in Sub-section (1) of Section 165 may be made:

(a) by the person who has sustained the injury; or

(b) by the owner of the property; or

(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or

(d) by any agent duly authorized by the person injured or all or any of the legal representatives of the deceased, as the case may be;

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as Respondents to the application.

(2) Every application under Sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred, or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the Defendant resides, and shall be in such form and contain such particulars as may be prescribed;

Provided that where no claim for compensation u/s 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant];

(4) The Claims Tribunal shall treat any report of accidents forwarded to it under Sub-Section (6) of Section 158 as an application for compensation under this Act]

(k) On receipt of the application for compensation u/s 166 filed by the persons specified in Sub-section (1) of Section 166, the Claims Tribunal after giving notice of the application to the Insurer and after giving the parties an opportunity of being heard shall hold an enquiry in to the claim, as the case may be, each of the claims and subject to the provisions of Section 162 and made an award determining the amount of compensation which appear to it to be just and specifying the person/ persons to whom the compensation shall be paid.

(i) u/s 175 of the Motor Vehicles Act, 1988 where any Claims Tribunal has been constituted for any area no Civil Court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal for that area.

5. Submission of the learned Counsel:

Mr. H.N.K. Singh, learned Sr. counsel strenuously submitted that from the conjoined reading of Sections 165, 166 and 168 of the Motor Vehicles Act, 1988, it would be clear

that only the persons specified in Sub-section (1) of Section 166 could file an application for compensation arising out of an accident for the nature specified in Sub-section (1) of Section 165. On receiving such claim, the Claims Tribunal has to hold an enquiry and make an award determining the amount of compensation which appears to be just and specifying the person or persons to whom the compensation shall be paid. Section 175 of the Motor Vehicles Act simply bars the Civil Court to entertain any Suit relating to any claim for compensation filed by the persons mentioned in Sub-section (1) of Section 166 which could be adjudicated upon by the Claims Tribunal. The learned Sr. Counsel also strenuously submitted that the Claims Tribunal constituted u/s 165 of the Motor Vehicles Act, 1988 have the jurisdiction only to entertain any question relating to any claim for compensation made by the persons specified in Sub-section (1) of Section 166. Such being the situation, according to the submissions of the learned Sr. counsel for the Appellant/Plaintiff, Section 175 of the Motor Vehicles Act, 1988 does not bar the Civil Court from entertaining any suit filed by the Insured (owner of the insured vehicles) against the Insurer (Insurance Co.) to indemnify Insured the compensation paid by the Insured for the lost of life of the third party in a vehicular accident of the insured motor vehicle under the terms and conditions of the Insurance Policy. This Court is of the considered view that the submissions of the learned Sr. Counsel has the force of law.

6. Jurisdiction of Civil Court.

Section 9 of the Code of Civil Procedure, 1908 clearly mentions that the Civil Court shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred. For easy reference, Section 9 of the CPC 1908 is quoted hereunder

9. Courts to try all civil suits unless barred-The Courts shall (subject to the provisions contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

Explanation-[1]- A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

[Explanation II- For the purpose of this Section it is immaterial whether or not any fees are attached to the office referred to in Explanation I or whether or not such office is attached to a particular place]

7. The jurisdiction of the Civil Court to try the civil suit has been discussed and illustrated by the Apex Court in a number cases. Some of which are:

1. [Rajasthan State Road Transport Corporation and Another Vs. Krishna Kant and Others.](#)

2. [Dwarka Prasad Agarwal \(D\) by Lrs. and Another Vs. Ramesh Chandra Agarwala and Others,](#)
3. [Dhulabhai and Others Vs. The State of Madhya Pradesh and Another,](#)
4. [Sahebgouda \(dead\) by Lrs. and Others Vs. Ogeppa and Others,](#)
5. [Dhruv Green Field Ltd. Vs. Hukam Singh and Others,](#)
6. [Swamy Atmananda and Others Vs. Sri Ramakrishna Tapovanam and Others,](#)

From the ratio laid down by the Apex Court in the above cases, it is clear that (i) the existence of jurisdiction in Civil Court to decide questions of civil nature being the general rule and exclusions being an exception, the burden of proof to show that jurisdiction is excluded in any particular case is on the party arising such contention. The rule that the exclusion of jurisdiction of a Civil Court is not to be readily inferred is based on the theory with Civil Court is a Court of general jurisdiction and people have a right unless expressly or impliedly barred to insist for free access to the Court of general jurisdiction of the state: (ii) where the statutes give a finality to the orders of the special tribunal, the Civil Court's jurisdiction must be held to be excluded if there is an adequate remedy to do what the Civil Court would normally do in such a Suit.

8. Coming back to the present case, the core questions are (i) whether the tribunal constituted u/s 165 of the Motor Vehicles Act, 1988 has the jurisdiction to entertain the present civil statute for granting the relief sought for therein or not; (ii) whether the Appellant/Plaintiff can file the present Original (Money) Suit No. 4 of 1992 for the relief sought for therein before the Claims Tribunal constituted u/s 165 of the Motor Vehicles act, 1988 or not. The clear answers would be the negative inasmuch as the Claims Tribunal constituted u/s 165 of the Motor Vehicles Act, 1988 could only entertain the applications for compensation arising out of an accident for the nature specified in Sub-section (1) of Section 165 filed by the persons specified in Sub-section (1) of Section 166 of the Motor Vehicles Act, 1988. And also even if the Claims Tribunal has the trapping of the Civil Court has no jurisdiction to entertain the civil suit for a decree for recovery of an amount of money paid by the Insured (owner of the insured vehicle) from the Insurer (Insurance Company) on the basis of the Insurance Policy issued by the Insurer under which the Insurer has to indemnify the Insured against the costs incurred by the Insured (owner of the insured vehicle) in paying the compensation for the lost of life of the third party in the vehicular accident of the insured motor vehicle.

9. For interpreting Section 175 of the Motor Vehicles Act, 1988 which appears in Chapter-XII of the Motor Vehicles Act, 1988, the whole chapters, i.e. chapter-XII of the Motor Vehicles Act, 1988, should be read as a whole. It is the basic principle of construction of statute that the same should be read as a whole, then chapter by chapter, section by section and word by word. Recourse to construction or interpretation of statute is necessary when there is ambiguity, obscurity, or inconsistency therein and not

otherwise. An effort should be made to give effect to all parts of the statute and unless absolutely necessary, no part thereof shall be rendered surplusage or redundant. In this regard reference may be made in:

(1) [Bhavnagar University Vs. Palitana Sugar Mill Pvt. Ltd. and Others](#), and

(2) [Dinesh Chandra Sangma Vs. State of Assam and Others](#), Further, it is also one of the principles for

interpretation of statute that only logical and harmonious construction of the provisions would be adopted. Ref: [State of Maharashtra and Others Vs. Santosh Shankar Acharya](#),

The principle of "Casus Omissus" should not be readily inferred in the interpretation of the statute inasmuch as all the parts of the statute or section must be construed together and every clause of a section should be construed with reference to the context and other clauses thereof so that the construction to be put on a particular provision makes a consistent enactment of the whole statute. We may here recall the decision of the Apex Court in [Union of India \(UOI\) Vs. Rajiv Kumar](#),

10. Having regards to the ratio laid down by the Apex Court, this Court is of the considered view that Section 175 of the Motor Vehicles Act, 1988 cannot be read in isolation of other sections, i.e. Sections 165, 166, 168, 169 and 170, of Chapter-XII of the Motor Vehicles Act, 1988. For the sake of repetition, this Court again reiterated that what the embargo on the Civil Court u/s 175 of the Motor Vehicles Act, 1988 in entertaining the Civil Suit is that Civil Court shall not entertain any suit relating to any claim of compensation which could have been adjudicated upon by the Claims Tribunal constituted under Sub-section (1) of Section 165 on the applications filed by the persons specified in Sub-section (1) of Section 166 of the Motor Vehicles Act, 1988 arising out of an accident for the nature specified in Sub-section (1) of Section 165 of the Motor Vehicles Act. It is crystal clear in the present case that the Appellant/Plaintiff is not the one of the persons specified in Sub-section (1) of Section 166 of the Motor Vehicles Act, 1988 who could file the application for compensation arising out of an accident for the nature specified in Sub-section (1) of Section 165. As such there is absolutely no barred on the Trial Court, i.e. the Civil Judge, Senior Division-1, Manipur East, to proceed and try with the Original (Money) Suit No. 4 of 1992.

11. For the reasons discussed above, the findings of the learned trial Court in the impugned judgment and order dated 31.02.2001 in the Original (Money) Suit No. 4 of 1992 that the Trial Court has no jurisdiction to take up the present case as the jurisdiction of the Court is expressly barred by Section 175 of the Motor Vehicles Act, 1988 is not correct. Accordingly, impugned judgment and decree dated 31.03.2001 passed in Original (Money) Suit No. 4 of 1992 is hereby set aside and appeal is allowed accordingly.

12. The record of the Original (Money) Suit No. 4 of 1992 is remitted back to the Trial Court for re-hearing the final hearing of the Original(Money) Suit No. 4 of 1992 on the evidence available record and to pronounce the judgment.

13. Parties are directed to appear before the Trial Court on 30.10.2006.

14. Registry is directed to circulate copies of this judgment and order to all the Civil Judges (Sr. Division) and Civil Judges (Jr. Division) of the State of Manipur.