

(2022) 11 SIK CK 0015

In the Sikkim High Court

Case No : Motor Accident Claim Appeal No. 01 Of 2021

Branch Manager, New India Assurance Co. Ltd. And Another	APPELLANT
Vs	
Krishna Bahadur Darjee And Others	RESPONDENT

Date of Decision : 03-11-2022

Acts Referred:

Code Of Civil Procedure, 1908 — Section 151

Code Of Civil Procedure, 1908 — Order 22 Rule 2, Order 22 Rule 4, Order 22 Rule 5

Citation : (2022) 11 SIK CK 0015

Hon'ble Judges : Meenakshi Madan Rai, J

Bench : Single Bench

Advocate : Navtara Sarda, S. S. Hamal, Tashi Wongdi Bhutia, Mahesh Subba, Pradeep Sharma, Sunil Baraily, Bhawana Chhetri

Judgement

Meenakshi Madan Rai, J

I.A. No.05 of 2022 is an application under Order XXII Rules 2 and 4 read with Section 151 of the Code of Civil Procedure, 1908 (for short, the "CPC") filed by one Sachin Darjee submitting therein that he is the legal heir, successor and representative of the deceased, Late Krishna Bahadur Darjee (Respondent No.1).

In response, it is averred that the applicant Bikash Darjee (sic) is a stranger to the matter and has no locus standi to file I.A. No.05 of 2022. During the rival verbal submissions advanced, it emanated that in fact Learned Counsel for the Appellant was referring to the applicant "Sachin Darjee" and erroneously the name of "Bikash Darjee" has been typed in the response.

Learned Senior Counsel for the applicant Sachin Darjee has drawn the attention of this Court to the provisions of Order XXII Rule 5 of the CPC with regard to determination of question as to legal representative. It emerges that the applicant in I.A. No.05 of 2022 is in fact the paternal uncle of the deceased and not his father who, is admittedly alive at this juncture.

In view of the aforementioned provision of law, the Learned Motor Accidents

Claims Tribunal, East Sikkim, at Gangtok, shall determine the question regarding the legal representative of the deceased victim, in view of the demise of Respondent Nos.1 and 2, within a period of three weeks? from today, record its finding and reasons thereof and forward the matter to this Court.

Copy of this Order be remitted to the Learned Motor Accidents Claims Tribunal, East Sikkim, at Gangtok, for compliance.