

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1541 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No.

2. To be referred to the Reporter or not? No.

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3. Whether Their Lordships wish to see the fair copy of the judgement? No.

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.

5. Whether it is to be circulated to the Civil Judge? No.

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ARVINDBHAI CHANDULAL MISTRY

Versus

NEW INDIA INSURANCE COMPANY

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Appearance:

MR BA VAISHNAV for Petitioner

SERVED BY DS for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 28/11/97

ORAL JUDGEMENT

The petitioner being original claimant has challenged the order dated 4th October, 1997 passed by the learned Motor Accident Claims Tribunal, Ahmedabad (Rural) in Motor Accident Claim Petition No. 1429 of 1988. The order impugned is passed below exh. 105.

2. By Exh. 105 the claimant moved an application before the learned Tribunal for permitting sum of Rs.

75,000/- being withdrawn by way of loan from the amount of fixed deposit for the sum of Rs. 2,07,023/- with State Bank of Saurashtra, Shahibag Branch, Ahmedabad. By the impugned order the learned Tribunal did not grant the prayer in the application saying "no". No reasons have been assigned by the learned Tribunal.

3. The petitioner has come with the case that the petitioner's prayer for withdrawal of Rs. 65,000/against the fixed deposit was granted in the past.

4. The notice first was made returnable on 18-11-1997. After the notice was served none of the respondents appeared. Then, rule was made returnable on 21-11-1997. Though process of rule has been served no one has appeared. This fact was recorded on 25th November, 1997. The matter was kept for orders today.

5. It can be seen from the application that the petitioner wanted loan of Rs. 75,000/- against the security of the fixed deposit in question. He wanted the said loan for purchase of machinery for development of his business. There are no other claimants except the petitioner himself as submitted by Mr. Vaishnav. This appears from the copy of the order which has been shown to this Court by Mr. Vaishnav. No appeal has also been filed against the award in question and hence bearing in mind the facts as stated above and the circumstances of the case, the following direction is issued.

6. The impugned one word order rejecting the application exh. 105 is hereby set aside. Request for raising loan of Rs. 75,000/- made in exh. 105 against the fixed deposit in question is hereby granted. Rule is made absolute in the aforesaid terms. No order as to costs. D. S. is permitted.