

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 914 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
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?
5. Whether it is to be circulated to the Civil Judge?

KANUMIYA TAJMIYA SINDHI

Versus

ORIENTAL INSURANCE CO.LTD.

Appearance:

MR MOHANBHAI DESAI for Petitioner

MR RAJNI H MEHTA for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 29/01/99

ORAL JUDGEMENT

RULE.

By the impugned order dated 25.4.1997, Motor Accident Claim Tribunal (Aux.) Banaskantha, Palanpur has allowed the application of the respondent-Oriental Insurance Co.Ltd. and directed to implead the owner and the Insurance Co. of the Truck No.GRO.4471.

2. It is contended by Mr Mohanbhai Desai, learned Advocate for the petitioner that the similar applications were submitted by the respondent-Insurance Company on earlier occasions and they were rejected by the same Tribunal and as such the Tribunal has committed error of material irregularity and illegality in exercising jurisdiction in granting application Exh.50. The learned Advocate has pointed out that similar applications, Exh.19 was rejected on 11.1.1996. application Exh.38 was rejected on 8.4.1998 and the third application Exh.47 was rejected on 28.11.1996.

3. I have read the order dated 11.1.1996. The learned Advocate for the Insurance Company did not appear. The learned Judge found no negligence on the part of vehicle No.GRO-4471. It is not in dispute that the said order dated 11.1.1996 has not been challenged. As such the same has attained its finality. As the first application was decided on merit, it was not open for the learned Tribunal to decide the subsequent application on merit. Thus, in my view, the learned Judge has committed material illegality in exercise of jurisdiction in granting application Exh.55 by the respondent Insurance Company.

4. Consequently, this Revision Application is allowed and the order below Exh.50 dated 25.4.1997 passed by the Chairman, MACT, Banaskantha, Palanpur is quashed and set aside. The application Exh.50 stands dismissed. Rule made absolute.

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msp.