

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 60 of 2002

To

FIRST APPEAL No. 62 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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NEW INDIA ASSURANCE CO.LTD - Appellant(s)

Versus

BACHUBHAI RAMDAS PATEL & 6 - Defendant(s)

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Appearance :

MR SANDIP C SHAH for Appellant(s) : 1,
MR DN TRIVEDI for Defendant(s) : 1,
NOTICE SERVED for Defendant(s) : 2 - 7.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 30/04/2012

ORAL JUDGMENT

1. These appeals have been filed against the

judgment and award dated 21.3.2001, passed by the Motor Accident Claims Tribunal(Auxi), Ahmedabad, in M.A.C.P. Nos.904 of 1998, 1521 of 1998 and 1601 of 1998, whereby the tribunal has partly allowed the said claim petitions and awarded compensation in a sum of Rs.2,05,000/- to the claimants of M.A.C.P. No.904 of 1998, Rs.1,60,200/- to the claimants of M.A.C.P. No.1521 of 1998 and Rs.98,400/- to the claimants of M.A.C.P. No.1601 of 1998 alongwith interest at the rate of 9% per annum from the date of filing of the applications till realization.

2. The facts in brief are that on 15.08.1998, Rajubhai alongwith other two persons were travelling in a Rickshaw bearing registration No.GJ-7-V-7969. When they reached near Ahuja Ice Factory, one tractor bearing registration No. GJ-9B-9186 came from opposite direction and dashed the said Rickshaw. As a result of the said accident, At that time the present appellant was serving as a driver in a Tempo bearing registration No. GTT- 3673. On the date of accident, Rajubhai expired and other two persons sustained grievous injuries, therefore, the legal heirs of deceased Rajubhai and injured persons filed claim petitions before the Tribunal for compensation. The Tribunal after hearing learned advocates for both the parties and after

perusing the record decided the claim petitions and passed the award as stated hereinabove, against which the present appeals are filed by the appellant-Insurance Company.

3. The learned Counsel for the appellant submitted that the Tribunal has committed an error in holding the Insurance Company liable to make payment of compensation. He further contended that at the time of accident the driver of the offending vehicle was holding the license of Light Motor Vehicles not Light goods vehicle. Therefore, he prayed to allow these appeals.

4. On the other hand, learned Counsel for the respondents have opposed the appeals and have prayed to dismiss the same, as being without merit. In support of his contention he relied upon the decision of this Court, in the case of ***National Insurance Company Ltd. Vs. Annappa Irappa Nesaria and Ors. reported in AIR 2008 SC 1418.***

5. I have heard learned counsel appearing for both the parties and perused the material on record. I have also perused the decision of Apex Court, relied upon by learned counsel for the respondents, wherein in

paragraphs 8, 16 and 27, the Apex Court has held as under:-

8. Ms. S.N. Bhat, learned counsel appearing on behalf of the respondent, on the other hand, submitted that the contention raised herein by the appellant has neither been raised before the Tribunal nor before the High Court. In any event, it was urged, that keeping in view the definition of the light motor vehicle as contained in Section 2(21) of the Motor Vehicles Act, 1988 (Act for short), a light goods carried would come within the purview thereof.

A light goods carriage, having not been defined in the Act, the definition of the light motor vehicle clearly indicates that it takes within its umbrage, both a transport vehicle and a non-transport vehicle.

Strong reliance has been place in this behalf by the learned counsel in Ashok Gangadhar Maratha Vs. Oriental Insurance Company Ltd., [1999(6) SCC 620].

16. From what has been noticed hereinbefore, it is evidence that transport vehicle has now been substituted for medium goods vehicle, and heavy goods vehicle. The light motor vehicle continued at the relevant point of time, to cover both light passenger carried vehicle, and light goods carried vehicle.

17. The amendments carried out in the Rules having a prospective operation, the licence held by the driver of the vehicle in question cannot be said to be invalid in law.

6. In view of the aforesaid observations made by the Apex Court, the present appeals deserves to be dismissed, therefore, the same are dismissed. No order as to costs.

[K.S.JHAVERI,J.]

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