

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 4403 of 2010****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, REGISTERED OFFICE AT 87,
MG ROAD - Appellant(s)**

Versus

**HEIRS OF DECEASED MINOR NIKUNJ KIRITBHAI JANI,
KIRITBHAI & 5 - Defendant(s)**

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Appearance :

MR RAJNI H MEHTA for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1 - 2, 4, 6,
NOTICE NOT RECD BACK for Defendant(s) : 3,
MR HITESH N ACHARYA for Defendant(s) : 4,
MR KK NAIR for Defendant(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI**Date : 29/02/2012**

ORAL JUDGMENT

1. This appeal has been preferred against the award passed under Section 140 of the Motor Vehicles Act, 1988.

2. Obviously, this award is in the nature of an interim award, which is subject to adjustment against the final award, which may be passed in the main claim petition. Looking to the facts of the case, I am of the opinion that the view taken by the Tribunal is tentative and any observations that may be made by this Court on the merits of the case may prejudicially affect the interest of either party before the Tribunal since the main claim petition is still pending.

3. Having considered the overall facts and circumstances of the case, I am of the view that interest of justice would be met by directing the Tribunal to expedite the hearing of the main claim petition pending before it.

4. Accordingly, the following order is passed;

[a] The main claim petition being M.A.C.P. No.70/2009 pending before the Motor Accident Claims Tribunal (Aux.), Dhrangadhra shall be heard

and disposed of, as expeditiously as possible, and preferably within a period of TWO YEARS from the date of receipt of writ of this order.

[b] The awarded amount as also the balance amount, if any, shall be invested in F.D.R., which shall be renewed from time to time, till final disposal of the main claim petition. If, ultimately, the claimants succeed in the main claim petition, the amount lying in F.D.R. shall be paid to them. In case, the main claim petition is rejected, the said amount shall be permitted to be withdrawn by the party concerned. The interest accruing on such deposit shall be paid to the original claimants on regular basis.

[c] It is directed that the original claimants shall file an Undertaking before the Tribunal concerned to the effect that the main claim petition shall not be abandoned or withdrawn and shall not be permitted to be dismissed for default or for any other cause and that the claimants shall pursue the main claim petition on merits.

5. With the aforesaid directions, the appeal stands disposed of. No order as to costs.

[K. S. JHAVERI, J.]

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