

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**FIRST APPEAL No. 4011 of 1999
To
FIRST APPEAL No. 4014 of 1999**

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

=====

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
?

=====

UNITED INDIA INSURANCE CO.LTD. - Appellant(s)

Versus

CHANDRIKABEN MAHESHCHANDRA PANDYA - Defendant(s)

=====

Appearance :

MR VIBHUTI NANAVATI for Appellant(s) : 1,
None for Defendant(s) : 1,
MR YM THAKKAR for Defendant(s) : 1.2.1, 1.2.2, 1.2.3, 1.2.4,1.2.5
MR MUKESH H RATHOD for Defendant(s) : 1.2.6
MR HS MUNSHAW for Defendant(s) : 1.2.7
DELETED for Defendant(s) : 1.2.8
RULE SERVED for Defendant(s) : 1.2.9

=====

CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 29/02/2012

ORAL JUDGMENT

1. Heard learned advocates for the parties and perused the papers on record.
2. The appellant herein has challenged the award dated 18.03.1999 passed by the Motor Accident Claims Tribunal (Main), Bhavnagar in Motor Accident Claims Petitions No. 529, 444, 635 & 670 of 1996 so far as the Tribunal awarded compensation with interest and proportionate costs after assessing contributory negligence of 50%-50% on both the vehicles.
3. It is the case of the original claimants that on 11.07.1996 while the injured and deceased were travelling in an S.T bus bearing registration no. GJ-18 V 950 a truck bearing registration no. GTP 7400 came from the opposite direction and dashed with the bus as a result of which the some sustained injuries on various parts of the body and some expired. The original claimants therefore filed claim petitions seeking compensation. The Tribunal after hearing the parties passed the aforesaid award.
4. Mr. Nanvati, learned advocate appearing for the appellant submitted that the Tribunal failed to take into consideration the entire facts of the case and evidence on record and thereby erred in assessing 50% contributory negligence on the truck driver. He submitted that the Tribunal ought to have held that the S.T Corporation is totally liable for the accident caused by its employee-driver.
5. As a result of hearing and perusal of records, this court

is of the view that considering the evidence on record and the facts and circumstances of the case, the Tribunal came to the conclusion that the appellant sustained injuries as a result of the rash and negligent driving of drivers of both the vehicles. The Tribunal has considered the panchnama and the evidence of both the sides. The sketch of the scene of accident shows that both the vehicles involved were negligent and some care by either of the vehicle could have averted the accident. Nothing is pointed out before this Court to take a contrary view. This court is in complete agreement with the reasonings adopted and findings arrived at by the Tribunal and therefore do not see any reason for causing interference.

6. In the premises aforesaid, appeals are dismissed. No costs.

(K.S. JHAVERI, J.)

Divya//