

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL NO. 607 of 2006****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 or any order made thereunder ?	

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AJAYGIRI BABUGIRI GOUSWAMY....Appellant(s)

Versus

DINESHBHAI B KHANDVA & 1....Defendant(s)

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Appearance:

MR PREMAL S RACHH, ADVOCATE for the Appellant(s) No. 1

DS AFF.NOT FILED (R) for the Defendant(s) No. 1

MR VASANTS SHAH, ADVOCATE for the Defendant(s) No. 2

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CORAM: HONOURABLE MR.JUSTICE KS JHAVERI**Date : 31/07/2015****ORAL JUDGMENT**

1. This Court on 03.07.2015 had issued fresh notice to respondent no. 1. Mr. Premal Rachh, learned advocate appearing for the appellant states that pursuant to the said order, respondent no. 1 was served by way of RPAD. However, none appears for respondent no. 1.

2. The appellant herein has challenged the award dated 21.10.2005 passed by the Motor Accident Claims Tribunal, (Aux.) Jamnagar in Motor Accident Claims Petition No. 872 of 2001 so far as the Tribunal rejected the claim petition filed by the appellant.

3. The appellant preferred the above referred claim petition to recover compensation of Rs. 50,000/- together with cost and interest against the respondents on account of damage caused to the vehicle being Maruti Van owned by the appellant herein in a vehicular accident which occurred on 06.10.2001. After recording the evidence and hearing the arguments of both the sides, the Tribunal vide judgement and award dated 21.10.2005 rejected the said claim petition. Hence the present appeal has been filed.

4. 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 rejecting the claim of the appellant. It is submitted that the Tribunal has rejected the claim petition without any basis and cogent evidence.

5. Mr. Shah, learned advocate appearing for the respondent no. 2 supported the award of the Tribunal and

submitted that the award may not be disturbed.

6. 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 accident occurred as a result of the rash and negligent driving of the driver of the Maruti Van. The Tribunal has considered the panchnama at Ex. 31, the deposition of pillion rider of Hero Honda bike at Ex. 60, the examination of appellant at Ex. 72, deposition of driver of vehicle owned by the appellant at Ex. 73 and has come to the conclusion that the Maruti Van was being driven negligently. The Tribunal observed that the driver of Maruti Van was driving a bigger vehicle as compared to the bike and that the driver had admitted in his deposition that he could not see the bike coming from the other side and that he failed to blow horn. Moreover, it is also required to be noted that there is no FIR registered against the driver or owner of the bike. Nothing is pointed to take a contrary view. Therefore, this court does not see any reason for causing interference.

7. In the premises aforesaid, appeal is dismissed. No costs.

(K.S.JHAVERI, J.)

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