

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 1188 of 2019****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2019
In R/FIRST APPEAL NO. 1188 of 2019****With****R/FIRST APPEAL NO. 1190 of 2019****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2019
In R/FIRST APPEAL NO. 1190 of 2019**

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UNITED INDIA INSURANCE CO LTD**Versus****ALKESHJI BABUJI THAKOR**

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Appearance:**MR GC MAZMUDAR(1193) for the Appellant(s) No. 1****MR HG MAZMUDAR(1194) for the Appellant(s) No. 1****HCLS COMMITTEE(4998) for the Defendant(s) No. 1****MR MAULIK J SHELAT(2500) for the Defendant(s) No. 4****MR. NISARG D SHAH(7299) for the Defendant(s) No. 1****NOTICE NOT RECD BACK(3) for the Defendant(s) No. 2,3**

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CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA**Date : 31/07/2019****ORAL ORDER**

1. Having regard to the controversy involved in the present cases which lies in a very narrow compass, the matter is taken up for final hearing.
2. Being aggrieved by common judgment and award dated 24th October, 2018 passed by the Motor Accident Claims Tribunal (Auxi), Patan in MACP No.319/2010 and 295/2010, the appellant-insurance company has preferred these First Appeals under section 173 of the Motor

Vehicles Act, 1988 ("the Act" for short).

3. Brief facts of the case are that on 20th July, 2008, the claimants were travelling in jeep bearing registration no. GJ-2-R-4976 which was being driven by its driver in rash and negligent manner endangering human lives. At that time another jeep bearing registration no. GJ-2-A-4912 came from opposite side in an excessive speed and endangering human lives and dashed with the jeep in which the claimants were travelling, as a result of which, the claimants sustained injuries.
4. The claimants have therefore, filed aforesaid claim petitions under section 166 of the Motor Vehicles Act claiming compensation of Rs. 2,00,000/- in MACP No. 319/2010 and Rs. 1, 00,000/- in MACP No. 295/2010 on account of sustaining injuries in a vehicular accident
5. The Tribunal has awarded Rs. 10,000/- towards compensation to the claimants of MACP No. 319/2019 (which is challenged in First Appeal No. 1188/2019) and Rs. 20,000/- to the claimants of MACP No.295/2019 (which is challenged in First Appeal No. 1190/2019).
6. Heard learned advocate Mr. H.G. Mazmudar for learned advocate Mr. G.C. Mazmudar for the appellant insurance company in respective First Appeals. He submitted that driver of the jeep bearing registration no. GJ-2-R-4976 dashed his vehicle with carts and then dashed with the jeep insured with the appellant-insurance company. He further submitted that the jeep insured with the appellant

was parked on the other side of the road. He further submitted that the Tribunal did not consider the FIR which was given by eye witness who had specifically not averred about involvement of insured jeep. He further submitted that even in panchnama, it was found that insured jeep was lying 40 feet away from the place of incident. He submitted that Tribunal has not considered the fact that the charge-sheet was filed against the driver of jeep bearing registration no. GJ-2-R-4976 for not holding valid and effective driving license and had no insurance policy. He further submitted that Tribunal committed an error in attributing 50% negligence of driver of the insured jeep.

7. However, looking to the smallness of amount of award involved in the respective First Appeals, no useful purpose would be served in dealing with the issue raised by the appellant in the respective First Appeals.
8. Having regard to the facts of this case and smallness of awarded amount, the First Appeals are dismissed with no order as to costs, keeping the issue raised in the respective First Appeals open to be decided in appropriate matter. Civil Applications also stand dismissed.

(BHARGAV D. KARIA, J)

RAGHUNATH R NAIR