

Final order Below Ex.1
In MAC Execution Petition No.317/2013

1. The present Execution Petition has been preferred by the United India Insurance Co. Ltd., through the Divisional Manager, namely, Girishkumar Natvarlal Upadhyay against the opponents No.1 to 8. It is hereby required to be noted that the present opponents No.1 to 3 are original opponent No.1 to 3 in MACP No.259/1984 and present opponents No.4 to 8 are original claimants of MACP No.259/1984. It is stated in the present execution petition that judgment & award was passed by the then Ld. M.A.C.T. (Auxiliary), Nadiad in MACP No.259/1984, dated 19.03.1991, wherein, it was ordered that “*The opponents are directed to pay jointly and severally a sum of Rs.12,28,600/- by way of compensation to the applicants/claimants, with running interest at the rate of 12% per annum from the date of the application within 3 months and if the amount is not paid within 3 months from the date of the award, they will be liable to pay interest at the rate of 15% from the date of the application till realization*”.

2. It is further on record that the said award was challenged by the United India Insurance Co. Ltd. before the Hon'ble High Court of Gujarat vide filing First Appeal No.710 of 1991 and the said First Appeal No.710 of 1991 had been decided by Ld. Single Judge of Hon'ble Gujarat High Court on 05.09.2007, wherein, Para-10 it is held that *“On an application to the Registrar General/Tribunal, the Insurance Company would be entitled to receive back the said amount with the interest which might have accrued on it. If some amount has already been paid by the Insurance Company to the claimants or has been disbursed in favour of the claimants from the amount so deposited by them, then to the extent of the said amount, the Insurance Company would be entitled to recover the same from the State Government with 6% interest per annum on the said amount from the date of deposit till realization. The claimants, however, would be entitled to recover the amount as found by this Court from the State Government with 6% interest from the date of the claim petition till realization, subject to deduction of the amount already received by them.”*
3. Further the original opponents No.2 & 3 of MACP No.259/1984 i.e. Executive Engineer, Public Health

Mechanical Division, Rajkot and Chief Secretary, Gujarat State, Gandhinagar had preferred First Appeal No.567 of 1993 before the Hon'ble Gujarat High Court against the original award passed by the then Tribunal in MACP No.259/1984, wherein, the Hon'ble High Court passed Common Order below First Appeal No.710/1991 & First Appeal No.567/1993, dated 06.02.2012 and held in Para -13 that *“Under the Circumstances, First Appeal No.710 of 1991 is allowed. Appellant Insurance Company is held not liable to satisfy the award. First Appeal No.567 of 1993 is partly allowed to the extend stated above. It is directed that the Board shall pay to the claimants a sum of Rs.8,53,000/- with proportionate costs and interest. The Board has already deposited a sum of Rs.4,00,000/- during the pendency of the appeal. The Board shall, therefore, deposit before the claims tribunal a further sum of Rs.4,53,000/- with proportionate costs and simple interest at the rate of 12% per annum from the date of the claim petition till the date of actual deposit before the claims tribunal which may be done within the period of two months from the date of receipt of the copy of this judgment. Both appeal stand disposed of accordingly with no order as to costs.”*

4. Now from the said orders of the Hon'ble Gujarat High Court in two different appeals, the United India Insurance Co. Ltd., was absolved from its liability and it was held that the Insurance Company could not be held liable to answer the award made in favour of the claimants but the State Government (Board) was liable because some person to become a gratuitous passenger traveled in the Truck and thereby committed breach of the terms and conditions of the policy. It was also stated in order of the First Appeal passed by Hon'ble Gujarat High Court that Tribunal had passed award against both the parties i.e. opponents, where the Insurance Company could be limited to a sum of Rs.4,00,000/- while the other Government's department is also liable to the said remaining part. As the Tribunal has awarded Rs.12,28,600/- and in the Common Order below First Appeal No.710/1991 & First Appeal No.567/1993, the award was reduced to Rs.8,53,000/- in substitution of Rs.12,28,600/-. It was also held in the judgment of the Hon'ble High Court that during the pendency of these appeals before the Hon'ble Gujarat High Court, the Board as well as the Insurance Company had deposited amount where as Rs.4,00,000/- was deposited by the Board while the

insurance company has deposited amount with interest as per the award.

5. Further in the Common orders, it was also noticed that previous Appeal No.710/1991 was disposed off by Ld. Single Judge by absolving the Insurance Company from its liability and resultantly permitting the insurance company to receive back the amount with interest accruing thereon. Here the said order passed by the Ld. Single Judge but somehow the insurance company did not withdraw the amount. It is also held in the said common orders that the Board, who has filed an application for review and, therefore, Hon'ble High Court has recalled such order and heard First Appeal of the Insurance company once again and, where the First Appeal No.710/1991 was allowed and insurance company was not held liable to satisfy the award and First Appeal No.567/1993 was partly allowed to the amount of Rs.8,53,000/- with proportionate costs and simple interest at the rate of 12%. It was also held that the Board has already deposited a sum of Rs.4,00,000/- during the pendency of the appeal and, therefore, the remaining amount is required to be paid by the Board before the Claim Tribunal with proportionate costs and simple interest at the rate of 12% per annum from the date of claim

petition till the date of actual deposit before the claim tribunal which may be done within the period of two months from the date of receipt of copy of this judgment and accordingly both the appeals stand disposed off.

6. Now after filling of the present Execution Petition, the summons were issued against the otherside and they were served upon the parties and they were appeared through their Ld. Advocates and even award holder. Thereafter, the United India Insurance Co. Ltd., also filed its written arguments vide Ex.13 and requested that the as per the order of Hon'ble Gujarat High Court in Appeal, the United India Insurance Co. Ltd., is entitled to recover the amount, which was deposited alongwith the interest at 6% p.a. from the State Government and, therefore, the Insurance Company has filed the said Execution Petition against the Executive Engineer, Public Health Mechanical Division, Rajkot and Chief Secretary, Gujarat State, Gandhinagar. The other side appeared through their Ld. Advocate and filed their objection qua the Execution Petition. The main contested parties i.e. Board had also made written submissions at Ex.46, wherein, it was stated that the award was reduced to Rs.8,53,000/- in substitution of Rs.12,28,600/- and the

Board has already paid Rs.4,00,000/- and, therefore, remaining amount of Rs.4,53,000/- with proportionate costs and simple interest at the rate of 12% was required to deposit and, therefore, the department deposited Rs.19,55,179/- on 18.04.2012 which includes interest before the Claim Tribunal, Nadiad and, therefore, the original claimants had filed MAC Execution Petition No.1003/2008 and the said amount was deposited and disbursed to the claimants and hence the said MAC Execution Petition No.1003/2008 was finally disposed off. It was also stated in the written submissions by the Board that the Board has to pay remaining amount of Rs.8,53,000/- and already paid Rs.4,00,000/- as per directed by the Hon'ble Gujarat High Court in First Appeal No.567/1993 and First Appeal No.710/1991. As when the First Appeal No.710/1991 was filed before the Hon'ble Gujarat High Court, the Board was not joined as a party to the proceedings and therefore the Board was not present when the appeal was disposed off and, therefore, the Board was not aware of the facts that whether the Insurance Company had deposited the amount of Rs.4,00,000/- with interest, therefore, Board had to pay Rs.4,53,000/- with proportionate costs and simple interest at the rate of 12% and, therefore, Board

deposited Rs.19,55,179/- on 18.04.2012 as per the award of the Hon'ble High Court, hence Board has already paid the amount and, earlier, the Board had already deposited Rs.4,00,000/- plus Rs.19,55,179/- and i.e. total amount of Rs.23,95,179/- before the Claim Tribunal at, Nadiad.

7. It is on record that, here the United India Insurance Company deposited Rs.7,62,503/- on 28.08.1991 before the Claim Tribunal, Nadiad after award passed by the Tribunal and, therefore, total amount of Rs.31,60,386/- deposited before the Claim Tribunal, Nadiad. The present Execution Petition was filed in 2013 as the original award was passed by the Tribunal in MACP No.259/1984 and the award was satisfied and the amount was already paid to the original claimants. Here the Ld. Advocate of the Board issued noticed dated 08.05.2019 to the original claimants and said notices were served upon them but they did not reply. Further notice was issued dated 24.01.2020 to the original claimants but the said notice was unserved and returned back to the Ld. Advocate of the Board.
8. From the above facts, it on record that total amount of Rs.31,60,682/- was deposited before the Tribunal, whereas, Rs.7,65,503/- was deposited on 28.08.1991

by United India Insurance Company, while remaining amount was deposited by the Board (Gujarat Water Supply and Sewerage Board) and, therefore, as per the order of the Hon'ble Gujarat High Court, the Board has already deposited the amount except the amount of interest on earlier deposited amount of Rs, 4,00,000/- and after deposition of the remaining interest, the Board is not liable to pay any further amount and he is not liable to pay any amount to the Insurance Company, therefore, the amount, which was withdrawn by the claimants then the insurance company is entitled to recover the said amount from the original claimants as they withdrawn excess amount towards the awarded amount.

9. Here the original claimants have appeared before this claim Tribunal and filed an application and stated that they are entitled to get amount of the award passed by the then claim tribunal, as well as, by the Hon'ble Gujarat High Court in First Appeals. The original claimants have also filed one list where they have released their Advocate from the present Execution Petition and the new Advocate has engaged and their produced V.P. on behalf of original claimants and thereafter reply at Ex.63 was filed on behalf of claimants along with delete application. It is stated in

the present application that Execution Petition is totally baseless, against the original facts and, therefore, it is required to be rejected. It is also stated that Office of the Insurance Company while Office of the Opponent Nos. 1 & 2 are situated beyond the limitation of this Court while the original claimants are residing in Bardoli, district Surat. It is also stated that opponents No.5 & 6 were expired in the year 20.09 & 2013 respectively and therefore, the said Execution Petition is not tenable against the death persons and, therefore, opponents No.5 & 6 are required to be deleted.

10. It is also stated in the application that so far as the order of First Appeal is concerned, there is no any order against the opponents No. 4, 7 & 8 and also not made any submission in the Execution Petition against them, therefore they are required to be deleted from the proceedings. It is also submitted that as per the order of the Hon'ble Gujarat High Court that *“On an application to the Registrar General/Tribunal, the Insurance Company would be entitled to receive back the said amount with the interest which might have accrued on it. If some amount has already been paid by the Insurance Company to the claimants or has been disbursed in fvaour of the claimants from the amount*

so deposited by them, then to the extent of the said amount, the Insurance Company would be entitled to recover the same from the State Government with 6% interest per annum on the said amount from the date of deposit till realization. The claimants, however, would be entitled to recover the amount as found by this Court from the State Government with 6% interest from the date of the claim petition till realization, subject to deduction of the amount already received by them.” Therefore claimant is entitled to recover the amount from the State Government with 6% interest from the date of the claim petition till realization, subject to deduction of the amount already received by them.

11. Heard the Ld. Advocates for the parties at length. Now the facts, it appears that the award was reduced to Rs.8,53,000/- in spite of Rs.12,28,600/- by the Hon'ble Gujarat High Court in First Appeal No.710/1991 & First Appeal No.567/1993 and Hon'ble Gujarat High Court has also directed that Board shall pay to the claimants a sum of Rs.8,53,000/- with proportionate costs and interest and the United India Insurance Co. Ltd., was absorbed from its liability and Insurance Company is permitted to receive back the amount with interest accruing thereon. Here it is an record that the

Insurance Company did not withdraw any amount and, therefore, the Insurance Company is entitled to receive back the said deposited amount with interest accruing thereon.

12. From the above facts, it appear that the Nazir has submitted report this Tribunal as per order of this tribunal and in the said report, it is mentioned that “in the said case, the amount was ordered to be deposited by the Board before the Gujarat High Court, Sola, Ahmedabad, and thereafter the said amount came to be refunded by the Gujarat High Court, Sola, Ahmedabad. The said amount of Rs.24,58,772/- was deposited vide Challan No.550 dated 27/05/2013. Thereafter, the said amount was paid to the claimants through Cheque No.11431 on 17/06/2013. through account pay cheque” and earlier deposited amount of Rs.19,95,179/- which was deposited by the Board vide C-Register No.560 dated 17.05.2012 and the said amount was ordered to pay to the original claimants on 08.06.2012. From the earlier record, the insurance company has deposited Rs.4,00,000/- with interest i.e. amount of Rs.7,65,503/- vide C-Register No.447 & 448 and the said amount has already been withdrawn by the original claimants. Now the entire amount which was deposited by Board, Insurance Company as

well as, the amount transmitted by the Gujarat High Court was withdrawn by the claimants though the claimants are entitled to Rs.8,53,000/- with proportionate costs and simple interest at the rate of 12% from the Board.

13. Now from the record, the Insurance Company has deposited amount of vide C-Register No.447 & 448 dated 07.01.2019. Thereafter the Tribunal has passed order of that amount i.e. Rs.7,65,503/- vide order dated 29.09.1991 to the claimants as per the disbursement of the award. Now it appears that claimants are entitled of Rs.8,53,000/- with proportionate costs and interest where the award of Rs.7,65,503/- has already been paid to the claimants as per the order of the Tribunal, therefore, the remaining amount i.e. Rs.8,53,000/- with proportionate costs and interest minus (-) the order in the year 1991 is remaining pending to the claimants. Therefore claimants are entitled on remaining amount with interest thereon. Now claimants mischief with this Tribunal and withdrawn the amount which was deposited by the Insurance Company, Board and the amount transmitted by the Hon'ble Gujarat High Court. Therefore as per the above facts and circumstances, the rest amount is required to be returned back to the Tribunal from the original

claimants within period of one month from the date of this order and in default of payment, the Bank account and immovable property which was ordered to be seized by my Ld. Predecessor P.O. will be forfeited accordingly.

Therefore, it is hereby required to direct the Nazir of District Court that he will report to this Tribunal about the calculation of the total amount with interest which the claimants are originally entitled to receive as per the final common order of the Hon'ble High Court in appeals except the amount which was withdrawn after deposition by the Insurance company in this tribunal and the Nazir of the District Court has submitted the detailed calculated report within a week and the copy of the same be kept in this record along with this order.

It is also directed the board to deposit the remaining interest part on amount of Rs.4,00,000/-. It is on record that my Ld. Predecessor P.O. has ordered to seize the bank account and immovable property of the original claimants and therefore, the some of the amount was withdrawn but some of the amount was lying in the accounts of the claimants.

It is also directed that the additional amount be recovered/adjusted from their movable or immovable property of the claimants. After payment of the said additional amount, the bank accounts and immovable property which was seized by my Ld. Predecessor P.O. shall be released. Nazir of District Court, Nadiad is hereby directed to calculate the whole amount which means the deposited amount and the withdrawn amount and the amount with interest which is entitled to receive back by the Insurance Company to the parties accordingly and after deposition from the parties of the said amount, the Insurance Company is entitled to receive the amount from the Nazir of District Court, Nadiad and rest amount be adjusted accordingly.

The Nazir is also directed to file legal proceedings for the mischief done by the concerned parties to the proceedings within a period 15 days.

It is also directed the Nazir, District Court that the United India Insurance Co. Ltd., is not entitled to get the interest during the delay period which was done by the insurance company by filing the Execution Petition though the Hon'ble High Court has already decided in its final order in first appeal and

accordingly, the present Execution Petition is disposed off in the interest of justice.

The Cost of this proceedings i.e. Rs.15,000/- be recovered from the original claimants within 1 month from this order.

Copy of this order be transmitted to Nazir, District Court, Nadiad for its immediate compliance.

Date : 27.05.2026
Place :- Nadiad.

(Prakashkumar P. Purohit)
2nd Additional District Judge,
M.A.C.T. (AUXI.)
Kheda at, Nadiad
GJ00685.