

ORDER BELOW EXH. 1 IN MAC. MISC. APPL. NO. 196 of 2022

- 1) The present applicant has preferred this application under Order 33 Rule 1 of the Code of Civil Procedure for permission to prosecute his claim petition for compensation in the sum of Rs. 8,00,000/- under Section 166 of the M.V. Act, 1988 as an indigent person, on the ground that he is not possessed of sufficient means to pay the Court fees stamp.
- 2) In support of the say of the applicant, he has filed an affidavit, schedule and proper declaration required under the rule declaring his existing movable and immovable properties.
- 3) Heard the learned advocate of the applicant. The learned advocate Mr. R.K. Sondarva for the applicant has argued as per the application, schedule of properties and affidavit of the applicant and urged to allow the application.
- 4) In this application, notice has been served upon to the State (through District Government Pleader, Amreli). But, in spite of service of the notice, no one has appeared on behalf of the Opponent State. Also, no any written objection against this application has been filed. Though the opportunity has been given to the opponent, but in spite of this, no any reply or objection has been filed against the present application by the opponent which shows that opponent has no any objection against the relief prayed by the applicant in his present application.

5) On taking into consideration the affidavit, verification and schedule there is no reason to disbelieve the case of the applicant at this stage, that he seems to be an indigent person unable to pay Court fees on his claim. Pursuant to the judgment of Hon'ble Gujarat High Court in the case of ***Rambhai Punjabhai Vinchiya Vs. The Gujarat State Road Transport Corporation, Ahmedabad reported in AIR 1975 Guj. 94*** in that case, petitioner moved with Civil Revision Appln. No.557/72 wherein Hon'ble Gujarat High Court has held that so far as the case relates to Order 33 Rule 1 of C.P.C. is concerned, the very object of the provision is that to enable too poor person to file suit without payment of Court fees. Not only that the expression “**sufficient means**” is elaborately considered in such a way that if such application is dismissed then the very object of compensation would be frustrated and therefore, on that ground the Hon'ble Gujarat High Court in that case held that in absence of Rs.1400/- values of cattle and other few heads and was liable to pay court fee of Rs.950/-. The value of cattle could not be taken into consideration to judge his “sufficient means” to pay court fee, as disposal of cattle to raise funds would result in starving the applicant before launching his claim and this was not the object of the legislature in enacting provision of Order 33, Rule 1 and therefore, the Hon'ble Gujarat High Court has held that application in pauper was required to be allowed. Further, in that case, the value was Rs.1400/- and the case was for the year of 1972 and presently the said value may be considered as Rs.14000/-. While in the present case, the petitioner has shown the value of Rs. 6,000/- of his household kits and etc. and therefore, here also the same is not required to be sold and neither immovable property is shown and nor the amount of the same is shown. Therefore, as per judgment cited (supra) at the cost of starvation, it

cannot be disallowed the pauper application. Further, it is undisputed that if the application is allowed, then the Court fees can be recovered by the Court from the awarded amount. I, therefore, deem it proper and justifiable to pass the following order:

O R D E R

The prayer contained in the application is hereby granted and so the applicant is permitted to prosecute his claim petition for compensation under the Motor Vehicles Act as an indigent person in forma pauperies, subject to any dispute which may arise from any party in future and consequently, the main claim petition is ordered to be brought on regular file and register accordingly. Issue notice to opponents.

Pronounced in the open Tribunal today on this 4th day of JANUARY - 2023.

Date: 04.01.2023
Place: Amreli

(Yogeshkumar Amrutlal Bhavsar)
MAC Tribunal (Auxi)
3rd Addl. District Judge,
Amreli. Code No-GJ 00354.