

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 2816 of 2023**

With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2023
In R/FIRST APPEAL NO. 2816 of 2023

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ICICI LOMBARD GENERAL INSURANCE CO. LTD.

Versus

BINABEN W/O. DIPAKBHAI DEVJIBHAI GARVA(WIFE)

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Appearance:

MR RATHIN P RAVAL(5013) for the Appellant(s) No. 1

for the Defendant(s) No. 6,8

MR. HEMAL SHAH(6960) for the Defendant(s) No. 1,2,3,4,5,7

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CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA

Date : 18/07/2023

ORAL ORDER

Heard learned advocate Mr. Rathin P.Raval for the appellant-applicant and learned advocate Mr. Jay H. Patel for learned advocate Mr. Hemal Shah for the original claimants.

Order in First Appeal:

Appeal is admitted for consideration of the following substantial questions of law arising out of impugned Judgment and Award:

"(1) Whether insurer can be liable if the deceased driver himself is not having any license?

(2) Whether insurer can be liable if the owner did not have any permit of the vehicle?

(3) Whether insurer can be liable if the deceased himself was negligent?"

Order in Civil Application:

Issue Rule returnable on 25th August, 2023 qua respondent no.8. Learned advocate Mr. Jay Patel for learned advocate Mr. Hemal Shah waives service of rule for the original claimants.

Learned advocate Mr. Rathin P. Raval for the insurance company submitted that the entire amount as per the award has been deposited.

Learned advocate Mr. Jay Patel for the original claimants prays for disbursement of the amount deposited by the applicant.

The Labour Court, Bhuj is directed to invest

70% thereof in a cumulative fixed deposit in any nationalized bank in the names of respondents-original claimants initially for a period of five years, to be renewed from time to time till final disposal of the appeal. The claimants shall not be allowed premature withdrawal thereof or to raise any borrowings on the basis of such investment without permission of this Court. Original of the fixed deposit receipt be retained in the custody of the Workmen Compensation Commissioner, Labour Court, Bhuj.

Remaining 30% amount shall be disbursed in favour of the original claimants through Account Payee cheque after due verification.

Consequently, implementation, operation and execution of the impugned Judgment and Award dated 30.09.2022 is stayed.

(BHARGAV D. KARIA, J)

RAGHUNATH R NAIR