

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 324 of 2025****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2025****In****R/FIRST APPEAL NO. 324 of 2025**

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TATA GENERAL INSURANCE CO. LTD.**Versus****DEVANBEN MASRIBHAI BAMANIYA & ORS.**

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Appearance:

MS KIRTI S PATHAK(9966) for the Appellant(s) No. 1

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CORAM: HONOURABLE MS. JUSTICE NISHA M. THAKORE**Date : 17/06/2025****ORAL ORDER**

Heard Ms. Kirti Pathak, learned advocate for the appellant – insurance company.

It is submitted that the Tribunal has committed gross error in determining the liability of the appellant insurance company in absence of any cogent material being brought on record with regard to the final cause of death of the deceased. The attention of this Court was invited to the findings and reasons assigned by the Tribunal while deciding the issue of liability. According to the learned advocate for the appellant, even upon consideration of the evidence of the Doctor, who has been examined as witness, it has transpired that the deceased was admitted in his hospital from 31st August, 2021 to 6th September, 2021 as an indoor patient and was operated.

During the aforesaid period, steel plate was fitted in the left leg of the deceased and thereafter, he was referred to the higher center noticing the other injuries sustained by the deceased, more particularly on the jaw and the hemorrhage found in the head. She has further pointed-out that the said witness was cross-examined at length. The death certificate, which is produced at Exh.29 indicates that the deceased had expired on 7th October, 2021. Apart from the aforesaid evidence, the refer note has been produced at Exh.37 and injury certificate produced at Exh.24. However, on overall appreciation of the aforesaid evidence, no material has been brought on record establishing the nexus of the injuries sustained in the accident and the cause of death. She has further invited my attention to the grounds raised in the appeal memo to point-out that the issue of contributory negligence also deserves reconsideration.

Considering the aforesaid submissions of the learned advocate for the appellant and the grounds raised in the appeal, the appeal deserves consideration. Hence, at this stage the appeal is **Admitted**. The registry is directed to **call for R. & P.** from the concerned Tribunal.

Order in Civil Application :-

Rule returnable **29th July, 2025**.

By way of **ad-interim relief**, there shall be stay against the execution, operation and implementation of the impugned

judgment and award dated 22nd November, 2024 passed in MACP no.39 of 2021 by the Motor Accident Claims Tribunal (Main) at Gir-Somnath at Veraval pending this application, subject to deposit of entire awarded amount including the costs and interest as awarded by the Tribunal.

AMAR RATHOD...

(NISHA M. THAKORE, J.)