

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 4833 of 2023****With****CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 1 of 2023****In R/FIRST APPEAL NO. 4833 of 2023****With****CIVIL APPLICATION (FOR STAY) NO. 2 of 2023****In R/FIRST APPEAL NO. 4833 of 2023**

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SUHASHBHAI ANANTBHAI (KHANDVA) KHANDEKAR**Versus****CHANDRIKABEN WD/O YOGESHBHAI MAGANBHAI PATEL & ORS.**

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Appearance:**MR VIVEK V BHAMARE(6710) for the Appellant(s) No. 1****for the Defendant(s) No. 3****MR DARSHIT H RAVAL(11887) for the Defendant(s) No. 1,2****MR MAULIK J SHELAT(2500) for the Defendant(s) No. 4**

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CORAM: HONOURABLE MS. JUSTICE GITA GOPI**Date : 19/02/2024****ORAL ORDER****Order in the Civil Application (For Condonation of Delay) No.1 of 2023:-**

Civil Application (For Condonation of Delay) No.1 of 2023 is already disposed of vide order dated 09/10/2023. Hence, registry to remove the same from the board.

Order in the First Appeal No.4833 of 2023 and the Civil Application (For Stay) No.2 of 2023:-

Over and above the other grounds, learned advocate for the appellant referred to the judgment in the case of **New**

India Assurance Co. Ltd. vs. Prabha Devi and others reported in **2013 (14) SCC 719** to submit that the policy covers the statutory liability to indemnity against third party or in respect of damages to the properties. Hence, the claimant as a heir of the deceased owner and insured himself cannot claim for any amount since the statutory benefit who is meant only for third party and which cannot be extended to the claimants. In view of the aforesaid judgment, he made prayer to quash the judgment and award dated 17/12/2018 by the learned Motor Accident Claims Tribunal, Ahmedabad (Rural) in MACP 1145 of 2007.

Let Notice be issued for final hearing to both the lawyers for the other side on record, returnable on 28/02/2024. Both the learned advocates for the other side waives service of notice on behalf of their respective parties.

(GITA GOPI,J)

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