

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/FIRST APPEAL NO. 1894 of 2025**

**With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/FIRST APPEAL NO. 1894 of 2025**

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ORIENTAL INSURANCE CO. LTD.

Versus

HEMANSHUKUMAR CHAMPAKBHAI THAKOR THRU LEGAL
GUARDIAN DILIPSINH ARJUNSINH THAKOR & ORS.

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Appearance:

MR CHIRAYU A MEHTA(3256) for the Appellant(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 30/06/2025

ORAL ORDER

Order in First Appeal:

Heard Mr. Mehta, learned advocate for the appellant. Learned advocate has at the outset, invited my attention to the findings and reasons recorded by the Tribunal while deciding the issue of negligency and has submitted that the Tribunal has completely ignored the evidence of the original claimant who is eyewitness to the accident while exonerating the driver of the truck. Learned advocate has also referred to the panchnama of the place of accident which is brought on record at Exh.41. By referring to the aforesaid document and evidence of the original claimant, the learned advocate has contended that despite the charge-sheet being filed against the driver of the truck, the Tribunal has proceeded to exonerate the driver of the truck for the reasons available on record. The attention of this Court was invited to the findings and reasons whereby the Tribunal has arrived at a conclusion

that the truck was lying stagnant on the side of the road whereas on bare perusal of the panchnama, it is evident that the Truck was shifted on the side of the road after occurrence of the accident. As regard the issue of liability is concerned, despite specific defence being raised about not holding of any driving license at the time of accident, the same has been ignored by the Tribunal.

Considering the aforesaid submissions of the learned advocate for the appellant and the grounds raised in the appeal, the appeal deserves consideration at this stage. Hence, **Admit**. Registry is directed to call for the Record and proceedings of the case from the concerned Court.

Order in Civil Application:

Issue Rule returnable on 11.08.2025.

By way of ad-interim relief, there shall be stay against the execution, operation and implementation of the impugned judgment and award dated 29.06.2024 passed in MACP No. 395 of 2017 by the Motor Accident Claims Tribunal (Auxi), Bharuch, pending this application, subject to deposit of entire awarded amount with the concerned Tribunal including the costs and interest as awarded by the Tribunal.

RATHOD KAUSHIKSINH

(NISHA M. THAKORE,J)