

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 1292 of 2025**

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ICICI LOMBARD GENERAL INSURANCE CO. LTD.

Versus

JAYABEN BAVABHAI @ BAVANJIBHAI RATHOD & ORS.

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Appearance:

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

MR AMAR D MITHANI(484) for the Defendant(s) No. 1

NOTICE SERVED for the Defendant(s) No. 3

NOTICE UNSERVED for the Defendant(s) No. 2

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**Date : 06/01/2026****ORAL ORDER**

1) Insurance Company is in First Appeal under section 173 of the Motor Vehicles Act, 1988. Challenge is made to the judgment and award dated 29.11.2024 passed by the learned Motor Accident Claims Tribunal (Auxi.), Dhoraji, Rajkot, in Motor Accident Claim Petition No.42 of 2022.

2) Perusal of the judgment and award indicates that Insurance Company has challenged the judgment and award made to the tune of Rs.03,64,700/- to the victim of the road accident.

3) Heard learned advocates for the respective parties.

4) The main contention of the learned counsel for the appellant is that, although the driver of the offending vehicle did not possess a valid and effective driving licence, the Tribunal committed an error in saddling the liability on the insurance company. The officer of the RTO was examined, and it was established that, on the date of the accident, the driver did not hold a valid driving licence. Hence, the appellant has requested this Court to allow the appeal or, in the alternative, to pass an order of "pay and recover."

5) Upon perusal of the record, it appears that the driver of the offending vehicle was holding a driving licence; however, no evidence was produced on record to show whether the licence was subsequently renewed or not. Considering the aforesaid facts, it appears that this is not a case where the driver not having a skill or knowledge required to drive the vehicle. Even otherwise, the owner is not expected to run from one Regional Transport Office to another to verify the validity of the driver's licence. The owner is only required to satisfy himself about the driving skill of the driver whom he has engaged. In this regard, reference is required to be made to the decisions of the Hon'ble Supreme Court in **Rishi Pal Singh Versus New India Assurance Co.Ltd., 2022 (0) ACJ 1868.**

6) Over and above the same, since the amount involved in the First Appeal is meager, this Court is of the considered view that the First Appeal should be disposed of as compensation awarded seems to be just and reasonable and no interference is called. It is hereby made clear that this First Appeal is disposed of only on the ground of award of compensation being meager and small. This Court has not expressed any opinion on merits and question of law raised in this First Appeal and is kept open to be urged in other proceedings which may arise from the same road accident / same judgment and award. It is made clear that this order will not come in the way of adjudication of any other First Appeal pending against same judgment and award or adjudication of any other claim petition arising from same road accident. Since the First Appeal is disposed of only on the contention of monetary value being small, principle of *res judicata* shall not be applied to any other proceedings arising from the same road accident or same judgment and award.

7) In view of above, the First Appeal is **dismissed**. Pending Civil Application, if any, stands disposed of as having become infructuous. No order as to costs.

8) Record and Proceedings and amount, if any lying before this Court is ordered to be transmitted to the concerned Tribunal forthwith along with accrued interest, if any. The entire awarded amount be disbursed and released in favour of the claimants after due verification by transferring the said amount to the account of the claimants either by RTGS or NEFT mode.

(HASMUKH D. SUTHAR,J)

SUCHIT

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: PATEL SUCHIT JAYESHBHAI(HC01083), Private Secretary, at High Court of Gujarat on 09/01/2026 11:19:26