

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 6363 of 2026**

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SMT. DAYABEN ASHOKBHAJ KHUNT & ORS.

Versus

STATE OF GUJARAT & ORS.

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Appearance:

MR. HEMAL SHAH(6960) for the Petitioner(s) No. 1,2,3

MR. PRAKASH M. KORAT(14416) for the Petitioner(s) No. 1,2,3

MR NIKUNJ KANARA AGP for the Respondent(s) No. 1

NANAVATI & CO.(7105) for the Respondent(s) No. 2,3

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CORAM: HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK

Date : 01/05/2026

ORAL ORDER

1. Present petition is filed by the petitioners under Articles 21, 19(1)(g), 226 and 227 of the Constitution of India seeking below mentioned relief/s:-

“13 (a) This Hon'ble Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction, holding and declaring that the failure of the Respondent authorities and their contractor to ensure mandatory safety measures, including warning signage, barricading and diversion on the Una-Mahuva Road, constitutes a breach of public duty and results in violation of the fundamental right to life guaranteed under Article 21 of the Constitution of India.;

b) This Hon'ble Court may be pleased to direct the Respondents jointly and severally to pay just, fair and reasonable monetary compensation of Rs. 50,91,157/- along with 9% from the date of filing, this petition to the present Petitioners for the untimely and avoidable death of Late Ashokbhai Dhanjibhai Khunt, caused due to the negligent acts and omissions of the Respondents, as a measure of public law compensation for constitutional tort;

c) This Hon'ble Court may be pleased to Direct Respondent Nos. 1 to 3 to fix responsibility and conduct an inquiry into the lapses, omissions and failures in

ensuring road safety on the Una-Mahuva Road at the relevant time, and to take appropriate administrative and disciplinary action against the erring officials and agencies, in accordance with law.

d) Pass such other and further orders as may be deemed just, fit and proper in the facts and circumstances of the present case, in the interest of justice."

2. The cause of action for the present Petition arises from a fatal road accident dated 26.12.2022 on the Una-Mahuva Road, wherein the deceased lost his life after his motorcycle slipped due to a large and hazardous heap of sand negligently placed on the road without any cautionary signage, barricading, warning or diversion, in clear breach of statutory safety norms.

2.1 An FIR being C.R. No. 11193040220505 of 2022 came to be registered with Nageshri Police Station, District Amreli, followed by filing of Charge-sheet No. 09 of 2023 dated 11.03.2023, culminating into Criminal Case No. 2217 of 2023, and the material on record establishes that the accident occurred due to negligent creation and non-management of a dangerous obstruction on the public road.

2.2 The Petitioners seek compensation for a constitutional tort, as loss of life has occurred due to failure of public authorities to discharge statutory duties.

3. Heard Mr. Hemal Shah, learned counsel for the petitioner and Mr. Nikunj Kanara, AGP for the respondent

No.1.

4. Learned counsel for the petitioner submits that the Respondent authorities permitted execution of road work on a public highway without ensuring mandatory safety measures such as signage, barricading, warnings and diversion, amounting to gross negligence, arbitrariness and breach of statutory duties, resulting in violation of Article 21 of the Constitution. He has submitted that the deceased was a careful and law-abiding road user, and there is no material indicating contributory negligence; the accident occurred solely due to a dangerous and unguarded obstruction created by the Respondents. He has submitted that the Respondents failed to prevent a foreseeable hazard, showing complete disregard for public safety and resulting in arbitrary exercise of power. He has submitted that the loss of life is irreparable, and compensation in public law is the only effective relief for violation of the fundamental right to life. He has submitted that the Petitioners, being the dependents of the deceased, have suffered severe financial, emotional and social hardship due to the untimely death of the sole earning member.

4.1 Over and above the grounds mentioned in the memo of the petition, learned counsel for the petitioner urges before the Court that present petition may be allowed and the relief prayed for by the petitioner may be granted.

5. On the other hand, learned AGP for the respondent has opposed the petition and submitted that present petition may not be entertained and the same may be dismissed .

6. I have perused the material and relevant documents placed on record. I have also gone through the record of the petition.

7. Considering the facts and circumstances of the case and after going through the prayer made in the petition and the relief prayed for by the petitioners, this Court is of the opinion that present petition does not deserves to be entertained.

8. However, it is open for the petitioners to take appropriate recourse by way of filing appropriate proceedings before the concerned Civil Court.

9. The concerned Civil Court, after affording proper opportunity of hearing to the petitioners and after hearing the submission of the petitioners, shall decide the issue raised by the petitioner, in accordance with law.

10. With above observations, the petition stands disposed of.

(HEMANT M. PRACHCHHAK,J)

SURESH SOLANKI