

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 1063 of 2026****With****CIVIL APPLICATION (FOR STAY) NO. 1 of 2026****In R/FIRST APPEAL NO. 1063 of 2026**=====
ICICI LOMBARD GENERAL INSURANCE COMPANY LIMITED , SURAT**Versus****AJAY YADAV KUNVAR YADAV (DELETED) & ORS.**
=====**Appearance:****MASUMI V NANAVATY(9321) for the Appellant(s) No. 1****MR VIBHUTI NANAVATI(513) for the Appellant(s) No. 1**
=====**CORAM:HONOURABLE MR. JUSTICE A.Y. KOGJE****and****HONOURABLE MS. JUSTICE NISHA M. THAKORE****Date : 27/03/2026****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE A.Y. KOGJE)****ORDER IN FIRST APPEAL NO.1063 of 2026**

1. Learned Advocate for the appellant has raised contentions with regard to quantum on the basis of income assessed of the victim. Learned Advocate has taken us through Para-55 of the impugned judgment and order, where calculation of average income of three years has been calculated, to which 10% is added as prospective rise. Thereby assessing Annual income to Rs.7,62,259/-.

2. However, learned Advocate has placed on record for perusal xerox copy of Exh.62, 63 and 64 and submitted that out of total income reflected in the Income Tax Returns, there are two parameters, which are income from the House Property as well as from long term capital gain, which according to learned Advocate will remain unaffected and would continue to be received by the family of the victim.

3. Hence, issue **RULE** returnable on **07-05-2026**. Learned Advocate Mr. Nishit Balodi waives service of notice of rule on behalf of the respondents- original claimants.

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ORDER IN CIVIL APPLICATION (FOR STAY) NO. 1 of 2026
In R/FIRST APPEAL NO. 1063 of 2026

1. **Rule** returnable forthwith. Learned Advocate Mr. Nishit Balodi waives service of notice of rule on behalf of the respondents- original claimants.

1(a). The application is filed for following relief:

“(A) Your Lordships may, pending hearing and final disposal of this First Appeal, be pleased to stay the operation/execution/implementation of the award dated 25.11.2025 rendered by the Ld. Motor Accident Claims Tribunal [Main] at Surat in MAC Petition No.29 of 2015;”

2. Considernig the submission made by the applicant in the First Appeal having been admitted by this Court, has prayed for stay on the execution, operation and implementation of the impugned award dated 25.11.2025 passed by the Motor Accident Claims Tribunal [Main] at Surat in MAC Petition No.29 of 2015 on usual terms and conditions.

3. Against which, learned Advocate for the respondents does not raise any serious contentions.

4. Hence, ***present application is partly allowed*** with the directions as under:

(I) The appellant-Insurance company is directed to deposit the awarded amount with interest and proportionate cost as directed by the Motor Accident Claims Tribunal [Main] at Surat within 8 weeks from today.

(II) On insurance company depositing such amount, the Court permits the original claimants to withdraw 30% of total deposited amount as per their respective shares, as granted by the Tribunal.

(III) 70% of the amount thus deposited be invested in any nationalized Bank in non-cumulative Fixed Deposit Receipt (FDR) in the name of the original claimants as per their respective shares decided by the Tribunal, which shall be renewed from time to time till final disposal of the appeal.

(IV) Respondents are entitled to receive the periodical interest on the aforesaid FDRs. The copy of original FDRs, shall be retained by Nazir of Tribunal.

(V) Subject to aforesaid condition of deposit of such awarded amount, there shall be stay of the operation and implementation of the impugned judgment and award pending the appeal.

4. In view of the above, *Civil Application is partly allowed*. Rule is made absolute to the aforesaid extent.

(A.Y. KOGJE, J)

(NISHA M. THAKORE,J)

PARESH SOMPUA