

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 4977 of 2025

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KARABHAI HOTHABHAI BHUTIYA

Versus

HARSHABEN W/O JAMNADAS GADHER & ORS.

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Appearance:

MR MIT S THAKKAR(11223) for the Petitioner(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE DEVAN M. DESAI

Date : 17/04/2025

ORAL ORDER

1. Heard learned advocate Mr. Mit S. Thakkar for the petitioner.

2. Learned advocate for the petitioner has submitted that originally claim petition filed against the driver and owner of the offending truck and the allegations in the claim petition as well as in the oral deposition of the petitioner was against the involvement of two vehicles namely the motor car and the truck, however in the cross-examination of claimant which is recorded at Exhibit-15, claimant has stated that there are three vehicles involved in the accident namely Dumper, Chhakado Rickshaw and the Alto Car. Thereafter, an application to implead owner, driver and Insurance Company of Tempo Chhakado Rickshaw

was filed at Exhibit-41. However, learned Tribunal rejected that application Exhibit-41. The said order is under challenge. It is further submitted that during the pendency of the proceedings vide Exhibit-27, the advocate for the claimant submitted a purshish stating that the contributory negligence if at all is found on the driver, owner of Rickshaw, the same will be accepted by claimants. The claim petition was posted for recording of oral deposition of the present petitioner. However, since the petitioner is aged about 83 years and suffering from Autoimmune Neurological Disease and as a result of which, he has lost control over his tongue and was unable to speak. Resultantly, an application was seeking adjournment to execute a general power of attorney to depose on his behalf was tendered, however, the said application also came to be rejected by learned Tribunal. It is contended that in the charge-sheet also involvement of Chhakado Rickshaw is found and therefore the impleadment of driver, owner and Insurance Company of Chhakado Rickshaw is required in the proceedings.

3. Considering the submissions canvassed by learned advocate for the petitioner, it appears that learned Tribunal has taken a hypertechnical view and rejected the application to implead driver, owner and Insurance Company of Chhakado Rickshaw. It appears that charge-sheet also indicates involvement of the third vehicle. The issue requires consideration and therefore, Rule.

4. In the meantime, there shall be stay against the further proceedings of MAC No.14 of 2021 pending before the learned Chairman, Motor Accident Claims Tribunal, Porbandar, till then.

Direct Service is permitted.

RINKU MALI

(D. M. DESAI,J)