

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 4375 of 2023****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Approved for Reporting	Yes	No

CHOLAMANDALAM MS GENERAL INSURANCE CO. LTD.

Versus

GAMBHIRBHAI RATANSING RATHOD & ANR.

Appearance:

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

MR.HIREN M MODI(3732) for the Defendant(s) No. 1

RULE SERVED for the Defendant(s) No. 2

CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**Date : 10/11/2025****ORAL JUDGMENT**

1. This appeal has been preferred by the appellant–Insurance Company against the judgment and award dated 10.02.2023 passed by the Motor Accident Claims Tribunal (Aux.), Vadodara in Motor Accident Claim Petition No.1197 of 2012.

2. Heard learned advocates for the respective parties. Though served, none appears for respondent No.2.

3. The brief facts of the case are that on 11.08.2012 at about 12:30 p.m., the claimant, along with his wife, was riding Motorcycle No. GJ-06-EM-1035 near Raghavpura Bus Stand at a moderate speed on the correct side of the road. At that time,

Auto-Rickshaw No. GJ-06-YY-4766, driven rashly and negligently from the wrong side, collided with the motorcycle, causing both the claimant and his wife to fall on the road, resulting in grievous fracture and multiple injuries to the claimant.

4. Learned advocate for the appellant submitted that the driver of the Auto-Rickshaw did not possess a valid and effective driving licence at the time of the accident. It was further submitted that though the RTO Officer, examined at Exhibit 82, confirmed that on the date of the accident the driver was not holding any valid driving licence, the learned Tribunal failed to appreciate this vital aspect. Hence, the Insurance Company is not liable to pay compensation, as there was a fundamental breach of the terms and conditions of the insurance policy. It is also contended that the 9% interest awarded by the Tribunal is on the higher side. Therefore, the present appeal deserves to be allowed.

5. On the contrary, learned advocate appearing for the respondent has strongly opposed the appeal and submitted that the learned Tribunal has rightly awarded just and proper compensation in view of the evidence available on record. It was contended that the judgment and award passed by the Tribunal are based on proper appreciation of evidence, and hence, no interference is called for. Accordingly, it was prayed that the appeal be dismissed.

6. On perusal of the record, it appears that the learned Tribunal has passed an award in favour of the claimant. The present appeal is filed mainly on the limited ground of liability. As per the registration certificate of the offending vehicle produced at Exhibit 31, the vehicle was insured with the present appellant for the period from 02.08.2012 to midnight of 01.08.2013, which covers the date of accident i.e. **11.08.2012**.

7. To prove its defence, the appellant-Insurance Company examined Shaileshkumar Himmatlal Bhabhor from the office of the RTO, Vadodara. During his examination-in-chief, this witness produced the extract of the driving licence of opponent No.1 on record vide Exhibit 83. According to the said document, opponent No.1, Ratanbhai Gordhanbhai Parmar, was authorised to drive a light motor vehicle for the period from 13.03.2021 to 12.03.2031. However, in cross-examination, the RTO witness admitted that certain records of the RTO Office, Vadodara, were destroyed in fire and that the information provided by him was based on online data, not verified manually. He also admitted that he had no information as to whether opponent No.1 had obtained a licence from any other RTO office.

8. In view of the above, there is no cogent or reliable evidence to establish that the driver of the offending vehicle did not possess a valid and effective driving licence on the date of the accident. The appellant-Insurance Company has also not produced any other evidence to substantiate its defence or to prove that the driver was not duly licenced. Hence, in absence of

any such proof, the Insurance Company cannot be exonerated from its liability, especially when the coverage of the insurance policy on the date of incident is not in dispute. Therefore, no case is made out to interfere with the well-reasoned judgment and award passed by the learned Tribunal. The learned Tribunal has assigned just, proper and valid reasons while rejecting the defence raised by the appellant–Insurance Company.

9. On overall appreciation of the evidence on record, the compensation awarded by the learned Tribunal appears to be just and proper, which calls for no interference by this Court. Accordingly, the appeal, being devoid of merits, deserves dismissal and is hereby **dismissed**. If any amount is lying deposited before this Court, the same shall be transmitted to the learned Tribunal forthwith. No order as to costs. The Registry is directed to return the Record & Proceedings, if any, to the learned Tribunal forthwith.

(HASMUKH D. SUTHAR,J)

ALI

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: ISTAYAK ALI(HC01093), PRIVATE SECRETARY, at High Court of Gujarat on 17/11/2025 14:15:59