

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/MISC. CIVIL APPLICATION (FOR TRANSFER) NO. 1704 of 2025**

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SHARDABEN JAMANBHAI MAKWANA & ANR.

Versus

DECD. ARVINDBHAI ALIAS RAHUL JAMANBHAI MAKWANA THROUGH
LH PURBAIBEN ALIAS SHAHINBEN HANIFBHAI JANEJA & ORS.

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Appearance:

MR HITESH S PADHYA(3877) for the Applicant(s) No. 1,2

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CORAM:HONOURABLE MR. JUSTICE MAULIK J.SHELAT**Date : 24/07/2025****ORAL ORDER**

1. Heard learned Advocate Mr. Hitesh S. Padhya for the applicants.
2. Learned Advocate Mr. Padhya for the applicants submits that the applicants herein were the original defendants No.5 and 6 of Motor Accident Claim Petition No.50 of 2025 filed by opponent No.1 herein, who claims to be the wife of the applicant's son, the deceased Arvindbhai, who died in road accident.
3. Learned Advocate Mr. Padhya would submit that prior to filing of such application, applicants herein have already preferred an independent claim application filed under Section-166 of Motor Vehicles Act, 1988 (hereinafter referred

to as “M.V. Act”) before the Motor Accident Claims Tribunal, Junagadh being Motor Accident Claim Petition No.277 of 2024, which is also pending for adjudication.

4. Learned Advocate Mr. Padhya would further submit that applicants are aged parents of deceased Arvindbhai, residing at Junagadh and as such, according to the case of the applicants, opponent No.1 herein is not legally wedded wife of their son i.e. deceased Arvindbhai.
5. Learned Advocate Mr. Padhya would further submit that in fact opponent No.1 happens to be claimant of claim petition sought to be transferred, is also permanent resident of District Junagadh. Therefore, the learned Advocate Mr. Padhya requests this Court that let claim petition filed by opponent No.1 be transferred and taken up along with claim petition filed by the applicants, pending before Motor Accident Claim Tribunal, Junagadh.
6. After hearing the learned Advocate Mr. Padhya and after going through the averments made in the application and also the documents annexed therewith, prima facie, it appears that for the death of Arvindbhai alias Rahul Jamanbhai Makwana in a vehicular accident, first the applicants have preferred claim petition under Section-166 of M. V. Act before Motor Accident Claim Tribunal, Junagadh

and thereafter, opponent No.1 herein has also preferred an independent claim petition being Motor Accident Claim Petition No.50 of 2025 pending before the Motor Accident Claim Tribunal, Ahmedabad (Rural). As such, for the death of one person, there cannot be two claim petitions filed and entertained. Even as per Section-10 of Code of Civil Procedure, 1908, subsequent suit filed between the same parties for the same cause of action, wherein, issue is directly and substantially the same required to be stayed.

7. Considering the aforesaid facts and circumstances and after hearing the submissions made by the learned Advocate Mr.Padhya and so also after going through the averments made in the application and the documents annexed therewith, the matter requires consideration.

8. Issue Rule, returnable on 29th August, 2025.

(MAULIK J.SHELAT,J)

Nilesh