

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 3275 of 2025**

With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/FIRST APPEAL NO. 3275 of 2025

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CHOLAMANDALAM M.S.GENERAL INSURANCE CO. LTD.

Versus

VIRENBHAI ASHOKBHAI SOLANKI & ORS.

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Appearance:

MASUMI V NANA VATY(9321) for the Appellant(s) No. 1

MR VIBHUTI NANA VATI(513) for the Appellant(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 11/09/2025

ORAL ORDER

ORDER IN FIRST APPEAL:

1. Heard Mr. Vibhuti Nanavati, learned advocate on record for the appellant-Insurance Company.

2. At the outset, learned advocate for the appellant has placed reliance upon the decision of the Hon'ble Supreme Court in the case of **United India Insurance Company Limited vs. Rakesh Kumar Arora** reported in **2008 (13) SCC 298**, to contend that the Tribunal committed grave error in ignoring settled principles of law, inasmuch as, it is an undisputed fact that the deceased was aged around 17

years. In such circumstances, even in absence of any proof of breach of conditions of contract of insurance being brought on record, the Tribunal ought to have advert to the statutory provisions of Sections 4 and 5 of the Motor Vehicles Act. He has, therefore, urged this Court to exonerate the appellant-Insurance Company from its liability to pay the amount of compensation.

3. Considering the aforesaid submissions of learned advocate for the appellant-Insurance Company, issue **Notice for final disposal**, making it returnable on **10.11.2025**.

ORDER IN CIVIL APPLICATION:

1. Issue **Notice**, returnable on **10.11.2025**.
2. By way of ad-interim relief, there shall be stay against the execution, operation and implementation of the impugned judgment and award dated 05.12.2024 passed in M.A.C.P. No. 1249 of 2009 by the Motor Accident Claims Tribunal (Auxi), Ahmedabad Rural at Navrangpura, pending this application, subject to deposit of entire awarded amount with the concerned Tribunal including the costs and interest as awarded by the Tribunal.

SUYASH SRIVASTAVA/SFS/12/09

(NISHA M. THAKORE,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: SUYASH KUMAR SRIVASTAVA(HC01570), PRIVATE SECRETARY, at High Court of Gujarat on 12/09/2025 17:42:16