IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/FIRST APPEAL NO. 2997 of 2025
With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/FIRST APPEAL NO. 2997 of 2025
With
CIVIL APPLICATION (FOR ADDITIONAL EVIDENCE) NO. 2 of 2025
In R/FIRST APPEAL NO. 2997 of 2025

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THE NEW INDIA ASSURANCE COMPANY LTD.
Versus
SUTHAR SHARDABEN DAMODARDAS (LHS OF DECD. SUTHAR PARSHOTTAMBHAI @ DAMODARBHAI VITHTHALBHAI) & ORS.

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Appearance:
MR NAGESH C SOOD(1928) for the Appellant(s) No. 1

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CORAM:**HONOURABLE MS. JUSTICE NISHA M. THAKORE**
Date : 25/08/2025
ORAL ORDER

Order in First Appeal:

Heard learned advocate Mr. Nagesh Sood for the appellant- Insurance Company. At the outset, learned advocate has placed reliance upon the additional documents produced on record along with the application seeking production of additional document in the nature of driving license of the original opponent no.1 – driver of the insured vehicle. It is submitted that the aforesaid document was traced recently pursuant to the investigation report submitted by the Investigating Officer of the appellant- Insurance Company. Upon bare perusal of the aforesaid extract of driving license indicates that the original opponent no.1 was not holding valid and effective driving license. He has further relied upon validity details as reflected in the extract of driving license wherein the license was re-validated on

5.12.2020 which was to prevail upto 4.12.2025. He has therefore, submitted that there was no driving license in force on the date of occurrence of accident. Reliance was placed on the defence raised before the Tribunal at the instance of the appellant Insurance Company. The impugned judgment and award was also assailed on the ground that the Tribunal committed serious error in considering 1/3rd deduction ignoring the fact that the daughter of the deceased, who is one of the claimant being major and married, cannot be treated as dependent on the income of the deceased. It was further contended that the original claimants no. 3 and 4 are major sons of the deceased and cannot be considered as dependent on the income of the deceased. It was also submitted that no proof of income has been produced on record and the Tribunal has determined the income of the deceased on higher side.

Considering the aforesaid submissions of the learned advocate for the appellant- Insurance Company and the grounds raised in the appeal memo, the appeal deserves consideration at this stage. Hence, **Admit.** Registry is directed to call for the record and proceedings of the case from the concerned Court.

Order in Civil Application No.1 of 2025:

Issue Notice upon the respondents, making it returnable on **01.10.2025.**

By way of ad-interim relief, there shall be stay against the execution, operation and implementation of the impugned judgment and award dated 06.05.2025 passed in MACP No. 626 of 2019 by the Motor Accident Claims Tribunal (Auxi), Anand, till further orders, subject to deposit of entire awarded amount with the concerned Tribunal including the costs and interest as awarded by the Tribunal.

Order in Civil Application No.2 of 2025:

Issue Notice upon the respondents, making it returnable on **01.10.2025.**

(NISHA M. THAKORE,J)

RATHOD KAUSHIKSINH