

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 4378 of 2022**

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DIVYABEN ALIAS DAYABEN NILESHBHAI AKABARI

Versus

NILESHBHAI DEVSHIBHAI AKABARI & ANR.

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Appearance:

NISHIT A BHALODI(9597) for the Appellant(s) No. 1

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CORAM:**HONOURABLE MS. JUSTICE NISHA M. THAKORE****Date : 04/08/2025****ORAL ORDER**

[1] Heard Mr. Nishit Bhalodi, learned advocate on record for the appellant – original claimant.

[2] Learned advocate has fairly submitted that the impugned judgment and award is challenged only on the ground of not holding valid and effective driving license on the date of accident. Learned advocate has placed reliance upon the decision of the Hon'ble Supreme Court in the case of **National Insurance Co. Ltd vs Swaran Singh & Ors** reported in **2004 (3) SCC 297**, to contend that admittedly, the policy involved is a package policy whereby the pillion rider travelling on the motorcycle has to be considered as a third party for the purpose of fixing the liability of the Insurance Company to pay compensation under the said policy.

[3] Learned advocate had further invited my attention to the fact that no witness has been examined by the Insurance Company and no evidence worth has been brought on record to

establish their defence that opponent No.1 – driver of the motorcycle was not holding valid and effective driving license to drive the motorcycle at the time of accident. He has, therefore, submitted that the Tribunal ought to have issued appropriate directions of pay and recovery.

[4] Considering the aforesaid submissions of learned advocate for the appellant – original claimant, issue **NOTICE** upon respondents, making it returnable on 15.09.2025.

[5] Registry is hereby directed to call for the Record and Proceedings, without paper book, so as to reach this Court on or before the next date of hearing.

Lalji Desai

(NISHA M. THAKORE,J)