

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 3721 of 2025**

With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2025
In R/FIRST APPEAL NO. 3721 of 2025

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AGGRAWAL MINERALS PVT. LTD.

Versus

DHARMISTHABEN WD/O SURESHBHAI DEVJIBHAI SOLANKI & ORS.

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Appearance:

MS MOHINI J BHAVSAR(3071) for the Appellant(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE MOOL CHAND TYAGI

Date : 16/10/2025

ORAL ORDER

ORDER IN FIRST APPEAL:-

Issue notice to the respondents, returnable on 27.03.2026.

ORDER IN CIVIL APPLICATION:-

1. Heard learned advocate for the applicant.

2. Learned advocate for the applicant submitted that the applicant is the owner of the offending vehicle involved in the accident. She further submitted that the learned Tribunal has fastened the liability upon the Insurance Company, and thereafter, the Insurance Company was permitted to recover the said amount from the owner of the vehicle. She further submitted that the recovery right was given to the Insurance Company on the ground that, at the time of accident the offending vehicle was not having the valid permit. She further

submitted that the learned Tribunal has not rightly appreciated the facts and circumstances of the present case. She further submitted that the accident in question has occurred on 17.09.2017, while the permit was valid till 04.08.2006 to 03.08.2011, and thereafter, the permit was renewed from time to time i.e. with effect from 26.02.2013 to 03.08.2019, and thereafter, with effect from 21.09.2017 to 03.08.2021. She further submitted that the appellant/applicant has applied for permit and the fitness of the vehicle was checked on 05.09.2017, and thereafter, the applicant/owner has also deposited a fee of Rs.800/- on 05.09.2017 and the owner/applicant has also paid the fine of Rs.3500/- and the Transport Authority has issued the fitness certificate. She further submitted that it is not the case where there is no permit at all, but some delay has occurred in renewal of the permit. She further submitted that in case of renewal, the renewal of the permit takes effect not from the subsequent date, but from the date when the permit lapse. In support of her contention learned advocate for the applicant/owner has relied upon the provisions of Clause-5 of Section 81 of the M. V. Act, which reads as under:-

“(5) Where a permit has been renewed under this section after the expiry of the period thereof, such renewal shall have effect from the date of such expiry irrespective of whether or not a temporary permit has been granted under clause (d) of section 87, and where a temporary permit has been granted, the fee paid in respect of such temporary permit shall be refunded.”

2.1 She further submitted that the said provision was considered by

the Hon'ble High Court of Karnataka in First Appeal No.5159 of 2016 in the case of **United India Insurance Company Limited Vs Smt. Yasmin Begum @ Yasmin and Ors.** In the said appeal, the Karnataka High Court has observed in paragraph-23 of the judgment, as under:-

“23. On a reading of the aforesaid provisions, it becomes clear when the permit is issued, in the first instance, it is effective from the date of issuance for a period of five years. But subsequently when a permit which has expired is renewed, it is from the date of expiry. Having regard to Sub-sections (2) and (3) of Section 81 of the Act, where there could be a delay in making of an application for renewal of permit and also keeping in mind the fact that renewal application would take sometime for it to be considered, processed and ultimately the permit being renewed even though such an application has been made well within time. Sub-section (5) of Section 81 of the Act takes care of a period during which the vehicle is plying on the public road, pending renewal of the permit. In such a case, Sub-section (5) of Section 81 of the Act states that where a permit is renewed after the expiry of its period, such renewal shall have an effect from the date of such expiry. In other words, Sub-section (5) of Section 81 of the Act deals with a case of deemed permit or takes care of a situation where pending renewal of the a permit, a transport vehicle is plying on a public road. In such a situation, it cannot be considered to be a case where the transport vehicle is plying without a permit rather the vehicle is plying pending renewal of the permit i.e. on a deemed permit. Renewal of the permit could take place only if a permit had been issued in the first instance and not otherwise. Hence, the object of a provision incorporating a legal fiction must be given its fullest scope and application.”

3. Coming to the case on hand, the accident took place on 17.09.2017. The permit was valid till 03.08.2016 but much prior to the date of the accident, the vehicle was checked by the Transport Authority on 05.09.2017 and the applicant/owner has also deposited the requisite fee of Rs.800/- and a fine of Rs.3500/- with the Transport Authority.

4. Thus, on the date of the accident, the vehicle has already been checked by the Transport Authority. Thus, having regard to the facts and circumstances of the present case, the execution, implementation and operation of the impugned judgment and award dated 03.12.2024 is stayed qua the present applicant/appellant till the next date of hearing.

5. Stand over to 27.03.2026.

CDP

(MOOL CHAND TYAGI, J)