

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 14164 of 2025**

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LEGAL HEIRS OF PASHABHAI AMBARAM PATEL SINCE DECEASED
HITENDRABHAI PASHABHAI AMBARAM PATEL

Versus

JILUBHAI AMARSINH GOHIL & ORS.

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Appearance:

MR RAKESH R PATEL(3239) for the Petitioner(s) No. 1

DECEASED LITIGANT THROUGH LEGAL HEIRS/ REPRESENTATIVES

for the Respondent(s) No. 2

KAASH K THAKKAR(7332) for the Respondent(s) No. 1

NOTICE SERVED for the Respondent(s) No. 3,4

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CORAM:HONOURABLE MR.JUSTICE MOOL CHAND TYAGI

Date : 27/07/2026

ORAL ORDER

1. Draft amendment stands allowed and the same shall be carried out forthwith.

2. The captioned petition is filed against the impugned judgment and award dated 13.03.2018 passed by the Motor Accident Claims Tribunal (Aux.) at Patan, in MACP No.180 of 2006, whereby the learned Tribunal had partly allowed the claim petition and awarded a sum of Rs.7,91,000/- as compensation along with interest at the rate of 9% per annum from the date of filing the claim petition till its realization.

3. The succinct facts which led to the filing of the captioned petition are that on 08.04.2006, at about 10:30 hours, deceased- Vijaysinh Jilubha Gohil was waiting for a vehicle at Chansma Cross Road to return from Chansma. At that time, original

Opponent No.1 came there in his Jeep bearing Registration No.GJ-6-A-7674 while proceeding towards Patan. original opponent No.1, who was known to the deceased, asked him to accompany him to Patan, and accordingly the deceased boarded the jeep. Opponent No.1 drove the said jeep at an excessive speed, in a rash and negligent manner, endangering the human life. The passengers, including the deceased, requested original opponent No.1 to reduce the speed of the jeep, but he paid no heed to their requests. Due to the excessive speed and rash and negligent driving, original opponent No.1 lost control over the said jeep, which turned turtle near Village- Gadosan. As a result of the said accident, the deceased sustained grievous injuries and succumbed to the same.

3.1. Having been served with the notice of claim petition, the opponent No.3-Insurance Company appeared and filed Written Statement vide Exhibit-59, thereby denying the averments made in the claim petition and prayed for dismissal of the claim petition. The opponent Nos.1 & 2 did not appear before the learned Tribunal.

3.2. Having considered the pleadings of the parties, oral as well as documentary evidence on record and the submissions canvassed by learned advocates for the parties, the learned Tribunal had awarded a sum of Rs.7,91,000/- as compensation along with the interest at the rate of 9% per annum from the date of filing of the claim petition till its realization.

3.3. Being aggrieved and dissatisfied with the impugned

judgment and award, the petitioner herein preferred the captioned petition.

4. Heard learned advocates for the parties.

5. At the outset, Mr. Rakesh R. Patel, learned advocate appearing on behalf of petitioner submitted that the impugned judgment and award came to be filed against the dead person. He further submitted that the alleged registered owner namely Pashabhai Ambaram Patel had expired on 19.01.2016. He further submitted that the impugned judgment and award came to be passed after the death of said Pashabhai Ambaram Patel on 13.03.2018. He further submitted that the award came to be filed against the dead person, therefore, the same is liable to be set aside.

6. Mr. Kaash K. Thakkar, learned advocate appearing on behalf of original claimants vehemently submitted that the said fact has to be proved by the legal representatives of the said Pashabhai Ambaram Patel before the learned Tribunal. Therefore, the matter may be remanded back to the learned Tribunal.

6.1. Learned advocate for the original claimants further submitted that both the parties may be provided the opportunity to lead the evidence.

7. Having considered the submissions canvassed by the learned advocates for the parties and having gone through the

record, it is not in dispute that the impugned judgment and award was passed by the learned Tribunal on 13.03.2018, while the original opponent No.2- Pashabhai Ambaram Patel had expired on 19.01.2016. Therefore, the said award came to be passed against the dead person. In view of the settled position of law that the impugned judgment and award is void ab-initio, therefore, the impugned judgment and award is liable to be set aside and the matter is remanded back to the learned Tribunal to proceed with the matter afresh.

8. In view of the above discussion, the impugned judgment and award passed by the learned Tribunal is set aside. Resultantly, the petition filed for execution of judgment and award does not survive. Consequently, the captioned petition stands allowed.

CDP

(MOOL CHAND TYAGI, J)