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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 2245 OF 2025

Priti Dattatray Gandhi & Ors. ...Appellants
Versus
M/s Nakoda Pharma Through Proprietor,
Mr Nilesh Chamlal Jain ...Respondents

Adv. Jay D. Gupta i/b. Adv. Vishnu D Gupta for the Appellants.

CORAM : M. M. SATHAYE, J.

DATED : 7th NOVEMBER 2025

P.C.:

1. Heard learned counsel for the Appellants.
2. This Appeal is filed challenging the impugned order under section 22 of the Employees Compensation Act, 1923 (**EC Act**). The Labour Court has taken view that the claim is barred in view of Section 167 of the Motor Vehicles Act, 1988 (**MV Act**) by which the doctrine of election is applied, since the Appellants/Claimants had already obtained compensation under the MV Act.
3. Learned Counsel for the Appellant submitted that Section 167 of the MV Act will not apply to the present case, because the claim under the MV Act has been made against the tort-feasor ie. the owner and the insurance company of the third party vehicle involved in the accident. He submitted that present claim under section 22 of the EC Act is against the employer, who was not party before the Motor Accident Claim Tribunal. He relied upon the following judgments in support his case:

- (a) Inspector General of Police vs Sayed Adam [1998 (1) L.L.N 875]
- (b) United India Insurance Co. Ltd. and Another vs. Kadarbi and Others [(1991) SCC OnLine Kar 411]

4. Perusal of the impugned judgment shows that Labour Court has considered the judgments of Rajasthan and Madras High Courts.
5. Considering the aforesaid, issue **notice of final disposal** to the Respondent, returnable on 28/11/2025. In addition to Court's notice private notice is permitted.
6. Advocate for the Appellants are directed to place on record all the case laws, which are referred in the impugned order.

(M. M. SATHAYE, J.)