

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Misc. Appeal No. 68/2025

1. Ircon International Limited, R/o Plot No. B-101 E, First Floor, Murlidhar Vyas Colony, Main Karnisar, Bikaner Through Its Authorized Signatory Mr. Vineet Kumar Tripathi.
2. Dharamdas Yadav S/o Shri Sampatlal, Aged About 38 Years, R/o Rampur, Madhuki @ Faijipur Koro Thana Manjanpur, Distt. Koshambi 212297, Uttar Pradesh.

----Appellants

Versus

1. The New India Assurance Company Ltd., Through Branch Manager, First Floor, Near Nagar Nigam, Pearl Paradise, Near Kirti Stambh, Bikaner, Police No. 33150031150100005316 Period Dated 12-10-2015 Up To 11-10-2016.
2. Dr. Rajni Dargad W/o Late Shri Rajkumar, Aged About 55 Years, R/o Rajni Hospital, Jassusar Gate Ke Bahar, Bikaner.
3. Ankita D/o Late Shri Rajkumar, Aged About 30 Years, W/o Shri Kinchit Bihani, R/o Flat No. 188, Akash Darshan Apartment, Ambedkar Bhawan Ke Samne, Mayur Vihar, Phase-I, Delhi.
4. Apurva Dargad D/o Late Shri Rajkumar, Aged About 26 Years, R/o Rajni Hospital Jassusar Gate Ke Bahar, Bikaner.
5. Medhanshu D/o Late Shri Rajkumar, Aged About 18 Years, R/o Rajni Hospital, Jassusar Gate Ke Bahar, Bikaner.
6. Kamla Devi W/o Late Shri Jamnadas Dargad, Aged About 79 Years, R/o 30/a/12B, Dr. P.t. Laha Street, Rishra, Hooghly, West Bengal, (Death During Pendency)

----Respondents

For Appellant(s) : Mr. Rishabh Khandelwal

HON'BLE MS. JUSTICE REKHA BORANA

Order

27/03/2025

1. Learned counsel for the appellants submits that the learned Tribunal erroneously fastened the liability to pay the compensation to the tune of 60% of the award amount on the appellant-owner whereas it was even the finding of the learned Tribunal itself that

the driver of the other vehicle in question was negligent and it was only because of his negligence and fast speed that the accident occurred.

2. Learned counsel submits that the truck (dumper) was in fact involved in the road construction work and was stationed on the road and the driver of the said vehicle could not have been held negligent for the said act.

3. Learned counsel further submits that admittedly, the owner had applied for a permit in the month of April 2016 and the same was issued belatedly by the RTO in the month of August 2016. Therefore, the appellants could not have been saddled with the liability on the ground of the vehicle not having a valid permit.

4. In view of the submissions made, Admit. Issue notice.

Issue notice of stay application also.

Notices be filed in two sets within a period of one week. On the same being filed, one set be given '*dasti*' to learned counsel for the appellants for service through registered post acknowledgment due. Notices be made returnable on 12.05.2025.

Postal receipts of the '*dasti*' notices be filed within a period of one week from the date of receipt of '*dasti*' notices.

5. Meanwhile, the effect, operation and execution of the award dated 29.08.2024 passed by Motor Accident Claims Tribunal, Bikaner in MAC Case No.388/2016 shall remain stayed qua the present appellants subject to their depositing 50% of the award amount (with interest) with the learned Tribunal within a period of eight weeks from now. The amount already deposited, if any, shall be adjusted qua the amount to be deposited now.



6. The amount when deposited be disbursed to the claimants in terms of the award.
7. Let record of the learned Tribunal be sent to this Court after disbursal of the amount to the claimants.

(REKHA BORANA),J

3-Devanshi/-