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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 1696 of 2019

With

CIVIL APPLICATION (FOR WITHDRAWAL/DISBURSEMENT OF AMOUNT) NO. 1 of 2023

In R/FIRST APPEAL NO. 1696 of 2019

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE L. S. PIRZADA

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Approved for Reporting	Yes	No

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ORIENTAL INSURANCE COMPANY LTD
Versus
JITENDRAJI MANUJI CHAVDA & ORS.

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Appearance:
MS MASUMI V NANAVATY with MR VIBHUTI NANAVATI(513) for the Appellant(s) No. 1
RULE SERVED for the Defendant(s) No. 2
RULE UNSERVED for the Defendant(s) No. 1
MS SPRUHA JOSHI for MR TIRTH NAYAK(8563) for the Defendant(s) No. 3,4,5,6

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CORAM:**HONOURABLE MR.JUSTICE L. S. PIRZADA**

Date : 29/10/2026

ORAL JUDGMENT

1. The present appeal has been preferred by the appellant–insurance company under Section 173 of the Motor Vehicles Act, 1988, challenging the Judgment and Award dated 28.12.2018 passed by the learned Judge, CBI Court No. 5, Mirzapur, Ahmedabad, in MACP No. 449 of 2012, whereby the Claim Petition of the original

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claimants was partly allowed and an amount of Rs.9,48,000/- was awarded, with a direction to recover the said amount from original opponent Nos.1 to 3 jointly and severally, along with interest at the rate of 9% per annum from the date of filing of the petition till payment of realization.

2. The factual matrix leading to the present appeal is that MACP No. 449 of 2012 was preferred by the parents of the deceased, Shekhar Harishkumar Anand. As per the case of the claimants, on 29.05.2012, at about 02:30 p.m., one Mr. Roshankumar Dilipsinh was riding a motorcycle bearing registration No. GJ-1-D-4723, along with the deceased, Shekhar Harishkumar Anand, as a pillion rider, from Sardarnagar towards Subhashbridge. At that time, the driver of the motorcycle, Mr.Roshankumar Dilipsinh, which was owned by opponent No. 5, was driving on the correct side of the road. When they were passing by the Hero Honda workshop on Sardarnagar Road, a milk van (truck) bearing registration No. GJ-2V-4202 came from the opposite direction on the wrong side of the road and

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collided with the motorcycle with full speed, in a rash and negligent manner. Due to the said accident, the pillion rider, who was sitting behind Mr.Roshankumar Dilipsinh i.e. deceased-Shekhar Harishkumar Anand, fell down and sustained grievous injuries on their heads and various parts of their bodies. Shekhar Harishkumar Anand died on the way while being taken to the Civil Hospital, whereas Mr.Roshankumar Dilipsinh sustained injuries and was admitted as an indoor patient at the Civil Hospital on 29.05.2012 to 02.06.2012. The said Mr.Roshankumar Dilipsinh also preferred a Claim Petition being MACP No. 394 of 2012. In connection with the accident, an FIR was registered at Sardarnagar Police Station vide I-C.R. No. 163 of 2012 against the truck driver. The parents of the deceased preferred the aforesaid Claim Petition before the Tribunal, claiming compensation of Rs.20,00,000/-. After considering the oral as well as documentary evidence, the learned Tribunal partly allowed the Claim Petition with costs and interest and directed the opponents to pay a sum of

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Rs.9,48,000/- to the orignal opponent Nos.1 to 3, jointly and severally, with interest at the rate of 9% per annum from the date of filing of the petition till realization. Being aggrieved and dissatisfied with the said Judgment and Award, the insurance company has preferred the present appeal.

3. Heard learned advocate Ms.Masumi V. Nanavaty for the appellant–insurance company. She submitted that the award passed by the learned Tribunal is contrary to the facts on record and that the findings and conclusions arrived at by the learned Tribunal are erroneous. She further submitted that the main ground on which the present appeal has been preferred is pertain to the original opponent No. 1, the driver of the truck, was not holding a valid driving licence at the time of the accident. She further submitted that the findings recorded by the learned Tribunal with respect to the legal liability of the insurance company of the offending vehicle are misconceived. Further submitted that the driver of the offending truck was not holding a valid and effective

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driving licence on the date of the accident, i.e., 29.05.2012. Further, it is submitted that the R.T.O. officer, who was examined vide Exh. 41, wherein he specifically stated that the driver of the offending tanker was not holding any kind of driving licence on the date of the accident, i.e., 29.05.2012. She further submitted that, as the driver was not holding a valid driving licence on the date of the accident, he had committed a breach of the terms and conditions of the insurance policy. Further, it is submitted that Mr.Pradeepkumar Bulakiram Pawar, the Area Manager of the insurance company, has been examined as a witness vide Exh.61 and in his deposition he has admitted that the insurance policy which has been produced at Exh.62 is concerned it was valid from 11.09.2001 to 10.09.2012 which is said policy was in existence and in this policy it is been clearly stated that at the time of accident the driver of the vehicle is not holding effective and valid driving license and hence, the insurance company is not liable to pay the compensation. She further submitted that the document produced at

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Exh. 43 clearly establishes that the transport driving licence was not valid on the date of the accident, i.e., 29.05.2012. The licence to drive a transport vehicle was valid from 08.04.2009 to 07.04.2012 and was subsequently renewed for the period from 31.05.2015 to 30.05.2018. Thus, on 29.05.2012, the licence holder was not holding a valid licence to drive the truck. In view of the above, she submitted that the impugned Judgment and Award passed by the learned Tribunal is erroneous and that the present appeal deserves to be allowed by exonerating the insurance company from its liability.

4. Per contra, learned advocate Mr.Tirth Nayak for the respondent vehemently opposed the appeal. He submitted that the learned Tribunal had considered every aspect of the matter and had recorded clear findings after appreciating the evidence on record. He pointed out that Mr. Bhaghirathsinh D. Chauhan, an employee of the R.T.O., Ahmedabad, was examined vide Exh. 41 and, during his cross-examination, specifically admitted that a licence could be renewed even after the expiry of its

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validity upon payment of late fees. He also admitted that, on 29.05.2012, the driver had a licence, though it had not been renewed. He further submitted that the driver of the offending vehicle was holding a driving licence for a non-transport vehicle for the period from 10.02.2005 to 07.04.2029. The learned Tribunal had rightly considered that the driver could not be said to have been disqualified from driving the light motor vehicle merely because the transport endorsement was not valid on the date of the accident. He further submitted that it had not been established on record that the owner of the offending vehicle was aware that the driver had not renewed the licence for driving a transport vehicle.

5. Heard learned advocates appearing for both parties.

6. Considering the rival submissions advanced by learned advocates appearing for both parties and upon perusal of the impugned judgment, the only question that arises for consideration is whether, on the date of the

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accident, i.e., 29.05.2012, the driver of the offending truck was not holding a valid driving licence to drive the transport vehicle, which is the sole ground on which the appellant–insurance company has preferred the present appeal. From the impugned judgment, it is amply clear that the driver of the offending truck bearing registration No. GJ-2V-4202 was holding a licence to drive a light motor vehicle in the non-transport category for the period from 10.02.2005 to 07.04.2029. The licence to drive a transport vehicle was valid for the period from 08.04.2009 to 07.04.2012 and was subsequently renewed for the period from 31.05.2015 to 30.05.2018. Thus, the admitted position is that, on 29.05.2012, the driver was not holding a licence for a transport vehicle, though he was holding a licence to drive a light motor vehicle. The Registration Certificate book of the offending truck bearing registration No. GJ-2V-4202 has been produced on record, and, as per the said R.C. book, the vehicle falls under the category of Light Goods Vehicle (LGV).

7. Considering the fact that the offending truck was of

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class of Light Goods Vehicles (LGV), and in view of the pronouncement of the Hon'ble Apex Court in the case of **Mukund Dewangan v. Oriental Insurance Company Limited,** reported in **(2016) 4 SCC 298**, it was held that a transport vehicle having a gross vehicle weight not exceeding 7,500 kg falls within the definition of a light motor vehicle. A holder of a driving licence to drive a light motor vehicle, as provided under Section 10(2)(d) of the Act, is competent to drive a transport vehicle or omnibus having a "gross vehicle weight" not exceeding 7,500 kg, as well as a motor car, tractor or road roller, the unladen weight of which does not exceed 7,500 kg.

8. The said judgment was subsequently considered by the larger Bench of the Hon'ble Apex Court in the case of **Bajaj Allianz General Insurance Company Limited v. Rambha Devi and Others**, reported in **2024 LawSuit (SC) 961**, wherein it was held as under:

> *"[131] Our conclusions following the above discussion are as under:-*

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(1) A driver holding a license for Light Motor Vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross vehicle weight under 7,500 kg, is permitted to operate a Transport Vehicle' without needing additional authorization under Section 10(2)(e) of the MV Act specifically for the 'Transport Vehicle' class. For licensing purposes, LMVs and Transport Vehicles are not entirely separate classes. An overlap exists between the two. The special eligibility requirements will however continue to apply for, inter alia, e-carts, e-rickshaws, and vehicles carrying hazardous goods.

(11) The second part of Section 3(1), which emphasizes the necessity of a specific requirement to drive a 'Transport Vehicle,' does not supersede the definition of LMV provided in Section 2(21) of the MV Act.

(III) The additional eligibility criteria specified in the MV Act and MV Rules generally for driving 'transport vehicles' would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7,500 kg i.e. 'medium goods vehicle', 'medium passenger vehicle', 'heavy goods vehicle' and 'heavy passenger vehicle'.

(IV) The decision in Mukund Dewangan (2017) is upheld but for reasons as explained by us in this judgment. In the absence of any obtrusive omission, the decision is not per incuriam, even if certain provisions of the MV Act and MV

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Rules were not considered in the said judgment."

9. Considering the above dictum of the Hon'ble Apex Court, it is not in dispute that, on the date of the accident, i.e., 29.05.2012, the driver of the offending vehicle, original opponent No. 1, was holding a driving licence for a non-transport vehicle, valid for the period from 10.02.2005 to 07.04.2029. Considering the class of the offending vehicle, namely, Light Goods Vehicle (LGV), it can be said that the driver of the offending vehicle, original opponent No. 1, was holding a licence for a non-transport vehicle from 10.02.2005 to 07.04.2029 and, so, he had a valid and effective licence to drive the Light Goods Vehicle (LGV), which is the offending vehicle, on the date of the accident, i.e., 29.05.2012. Further, from the Registration Certificate (RC) Book, it is also clear that the offending vehicle had a gross vehicle weight not exceeding 7,500 kg. Therefore, even a person holding a licence to drive a light motor vehicle can drive a Light Goods Vehicle that does not exceed 7,500 kg.

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10. Considering the above, the argument advanced by the learned advocate for the appellant that, on the date of the accident, the driver of the offending truck was not holding a valid and effective licence to drive the offending truck has no force. On the contrary, in view of the above discussion, it is found that the driver of the offending truck, i.e., original opponent No. 1, was holding a valid and effective licence to drive the truck on the date of the accident.

11. In view of the above, the impugned Judgment and Award passed by the learned Tribunal does not require any interference. The present appeal is, therefore, devoid of merit and deserves to be dismissed.

12. The following order is passed:

a. The present First Appeal No. 1696 of 2019 is hereby dismissed.

b. The judgment and award dated 28.12.2018 passed

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by the learned Judge, CBI Court No. 5, Mirzapur, Ahmedabad, in MACP No. 449 of 2012 is hereby confirmed.

c. In view of the dismissal of the First Appeal, Civil Application No. 1 of 2023 also stands disposed of accordingly.

d. Record and Proceedings (R & P), if any, be sent back to the concerned Tribunal forthwith.

(L. S. PIRZADA, J)

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