

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 54 of 2024

=====

PRAJAPATI HANSABEN @ SANTOKBEN AMRATBHAI ALIAS AMRITBHAI
DHULABHAI & ORS.

Versus

PRAJAPATI RAMESHBHAI HEERABHAI & ORS.

=====

Appearance:

NISHIT A BHALODI(9597) for the Petitioner(s) No. 1,2,3,4
for the Respondent(s) No. 3

NOTICE SERVED for the Respondent(s) No. 1

SHARMISHTA A DAVE(8735) for the Respondent(s) No. 2,4

=====

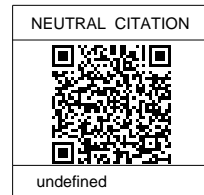
CORAM:HONOURABLE MS. JUSTICE GITA GOPI

Date : 08/05/2024

ORAL ORDER

1. The copy of the Package Policy No.0677003111P002124262 was produced by learned advocate Mr. Nishit A.Bhalodi for the petitioners.

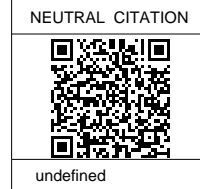
2. Advocate Ms. Sharmishta A.Dave for the respondent nos.2 and 4 was required to verify the copy, and as per oral instruction, she stated that the policy is of the vehicle insured in the name of Prajapati Amrutbhai Dulabhai.



3. The present petition has been filed with prayer to quash and set aside the order below Exh.39 dated 10.10.2023 in MACP No.108 of 2013 with further prayer to direct the Tribunal to allow the applicant to join the insurance company of Rickshaw No.GJ-02-Z-8511, which is United India Insurance Com. Ltd.

4. The order below Exh.39 was passed in MACP No.108 of 2013, where the prayer was made to add the Insurance Company of auto rickshaw. The Motor Accident Claims Tribunal, Mahesana rejected the application on 10.10.2023 observing that the applicant has not produced insurance policy of the auto rickshaw, and in absence, it could not be said that the risk of the driver of the offending vehicle i.e. auto rickshaw is covered or not.

5. Advocate Ms. Dave submitted that the



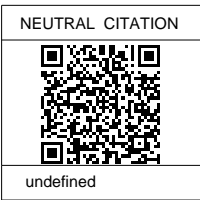
petitioners as claimants would not have any right to make a prayer for joining the Insurance Company as party respondent, since the owner-driver of Rickshaw No.GJ-02-Z-8511 was the injured, who had filed the petition, and after about a period of four years, he died, and thereafter the heirs have come on record, thus, Ms. Dave submitted that the claimants would be now the heirs of tort feisor, hence, Insurance Company would not be liable for any liability. Advocate Ms. Dave further stated that legal liability is only of paid driver and not as an owner.

6. Since the copy of the policy is produced before this Court, which shows that premium has been paid for legal liability of paid driver, it would be in the fitness of matter that the applicant be permitted to produce the same before the Tribunal.



7. In the facts of the matter, United India Insurance Com. Ltd. would be now Insurance Company for both the vehicles, in view of the copy produced before this Court, and since United India Insurance Company Ltd. was already respondent for the Jeep, let United India Insurance Com. Ltd., as referred in Exh.39, be joined as party respondent no.4 for Rickshaw No.GJ-02-Z-8511 along with driver and owner of Rickshaw No.GJ-02-Z-8511 as party respondent no.3.

8. It is stated that the driver and owner of Rickshaw No.GJ-02-Z-8511 died after four years of the accident, and, therefore heirs are required to be joined. In view of the peculiar facts of the case, the claimants are the heirs of deceased, who was injured owner-driver of Rickshaw No.GJ-02-Z-8511, let the issue of joining the legal heirs of owner-driver be kept open for the Tribunal to decide as to whether the



heirs of deceased owner-driver of Rickshaw No.GJ-02-Z-8511 is required to be joined as party respondent, since the fact has to be examined as to whether the death of the injured has direct nexus to the vehicular accident.

9. In view of the above, the present petition stands disposed of.

Pankaj

(GITA GOPI,J)