(2025) 12 GUJ CK 1895

In the Gujarat High Court

Case No : R/First Appeal No. 1307 Of 2022

Reliance General Insurance Co.Ltd — APPELLANT

Vs

Poonamben Wd/O Fulaji Jadav & Ors — RESPONDENT

Date of Decision : 17-12-2025

Acts Referred:
Motor Vehicles Act, 1988 — Section 149, 166

Citation : (2025) 12 GUJ CK 1895

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Rathin P Raval, Tanmay B Karia, Viral K Vash

Final Decision : Partly Allowed

Judgement

Hasmukh D. Suthar, J

1. This appeal has been preferred by the appellant–Insurance Company against the judgment and award dated 31.01.2019 passed by the Motor Accident Claims Tribunal (Auxi.) Gandhinagar at Kalol in Motor Accident Claim Petition No.384 of 2012 and order dated 04.03.2021 passed in Review Application No.1 of 2021.

2. Heard learned advocates for the respective parities.

3. The brief facts of the case are that on 03.08.2012, the deceased was travelling as a passenger in a car insured with the appellant. When the car reached near the place of the accident, the driver of the trailer drove the vehicle in a rash and negligent manner and collided with the car. As a result of the said accident, the deceased sustained fatal injuries and succumbed thereto.

4. The learned advocate for the appellant submitted that the Insurance Company is not liable to pay compensation, as the deceased was the owner of the insured vehicle and not a third party, and therefore was not entitled to claim compensation. It was contended that the learned Tribunal committed an error in awarding compensation. He further submitted that even assuming that the

Insurance Company had accepted an additional premium, the liability of the Insurance Company, being in the case of the owner of the vehicle, is limited to the terms and conditions of the policy, and that the Insurance Company is liable only to the extent of Rs.2,00,000/- towards personal accident cover for the owner. In this regard, it was submitted that the Insurance Company had filed Review Application No.1 of 2021 before the learned Tribunal, which also came to be dismissed. Hence, the learned advocate for the appellant prayed that both the judgment and order be quashed and set aside and that the present appeal be allowed.

5. Having heard the learned advocate for the appellant and upon perusal of the documents on record, it appears that in MACP No.384 of 2012, the claim petition was filed by the legal heirs of the deceased, namely Fulaji Prahladji Jadav. In the cause title, claimant No.1, Poonamben Fulaji Jadav, widow of the deceased, is shown as the claimant, whereas the deceased himself was the owner of the car, namely Indica Vista bearing Registration No. GJ-01-KA-9178, and is also shown as opponent No.1. Thus, the claim petition was filed against the deceased himself. A claimant and an opponent cannot be the same person.

6. It is an undisputed and admitted fact that the legal heirs of the deceased, who was the owner of the offending vehicle, have filed the claim petition seeking compensation for the accident caused due to the negligence of the deceased himself. The owner of the vehicle is not entitled to file a claim petition under Section 166 of the Motor Vehicles Act against his own Insurance Company, as the Insurance Company is liable to indemnify the insured only in respect of third-party risk, subject to the terms and conditions of the policy. As per Section 149 of the Motor Vehicles Act, the liability of the Insurance Company arises only to satisfy a claim in accordance with the policy conditions. In the present case, the core issue is not breach of policy, but the maintainability of the claim petition itself.

7. Undisputedly, the deceased was the registered owner of the vehicle and was driving the offending vehicle at the time of the accident. His legal heirs have preferred the claim petition against their own Insurance Company seeking compensation for the injuries sustained by him and the resultant death. The deceased cannot be treated as a third party, as he himself was the insured. Chapter XI of the Motor Vehicles Act mandates compulsory insurance only for third-party risk. In the present case, no injury or damage has been caused to any third party. The loss or injury was suffered by the owner of the vehicle himself.

8. In view of the law laid down by this Court in IFFCO Tokio General Insurance Co. Ltd. v. Dipakbhai Bhikabhai Patel, (2017) 2 GLR 1100, the learned Tribunal committed an error in saddling the Insurance Company with liability, as the owner of the offending vehicle himself was the tortfeasor and cannot claim compensation from the Insurance Company for his own negligence.

9. Upon perusal of the insurance policy, it appears that an additional premium was paid covering the personal accident risk of the owner-driver. Therefore, this Court is of the considered view that the Insurance Company is liable to pay compensation to the extent of Rs.2,00,000/- only, in accordance with the terms and conditions of the policy. To that extent, the present appeal deserves consideration.

10. Accordingly, the appeal is partly allowed. The judgment and award dated 31.01.2019 passed by the Motor Accident Claims Tribunal (Aux.), Gandhinagar at Kalol in Motor Accident Claim Petition No.384 of 2012 and the order dated 04.03.2021 passed in Review Application No.1 of 2021 are modified to the extent that the liability of the appellant–Insurance Company, namely Reliance Insurance Company Limited (original opponent No.2), shall stand limited to Rs.2,00,000/- only, instead of Rs.6,74,800/-. Record and proceedings, if any, be sent back to the concerned Tribunal forthwith. Pending civil applications, if any, shall stand disposed of accordingly.