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**(2010) 11 GUJ CK 0051**  
**In the Gujarat High Court**  
**Case No : First Appeal No. 1996 of 1983**

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| Vicas Tractors and Another | Vs | APPELLANT  |
| G.S.R.T.C and Another      |    | RESPONDENT |

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**Date of Decision :** 15-11-2010

**Acts Referred:**

**Citation :** (2010) 11 GUJ CK 0051

**Hon'ble Judges :** K. S. Jhaveri, J

**Bench :** Single Bench

**Advocate :** T.H. Sompura, 1 - 2, for the Appellant; Archana Patel, for Hardik C. Rawal, for Defendant 1, for the Respondent

**Final Decision :** Dismissed

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## Judgement

K.S. Jhaveri, J.—This appeal has been filed against the judgment and award passed by the Motor Accident Claims Tribunal (Aux.), Bhavnagar (for short, "the Tribunal") in M.A.C.P. No. 171/1981 dated 17.02.1983, whereby, the said claim petition came to be rejected.

2. The facts in brief are that on 01.07.1981 while appellant No. 2 herein was driving a Tractor bearing temporary registration No. GJZ-701/A on the Bhavnagar - Rajkot road, it met with an accident with an S.T. Bus bearing registration No. GTF-4520 driven by respondent No. 2 herein.

3. It is the case of the appellants that as a result of the said accident, the Tractor was extensively damaged and appellant No. 2 also got severely injured. The claim petition in question was filed before the Tribunal claiming compensation for the damage caused to the vehicle and also for the injury sustained by appellant No. 2. However, the said claim petition came to be dismissed vide impugned judgment and award dated 17.02.1983. Hence, this appeal.

4. Heard learned Counsel for the respective parties and perused the documents on record. The main contention raised by learned Counsel for the appellants is that the accident in question took place on account of the negligence of the

drivers of both the vehicles and not on account of the sole negligence of the driver of the Tractor, i.e. appellant No. 2 herein and therefore, contributory negligence ought to have been recorded by the Tribunal.

5. Looking to the circumstances in which the accident in question took place and the panchnama of the place of accident, I find that the accident took place on account of the sole negligence of appellant No. 2. Had the appellant No. 2 swerved the Tractor in a careful manner at the relevant time, the accident could have been avoided. In the impugned award, the Tribunal has discussed the entire issue in detail and I do not find any error having been committed by the Tribunal while considering the same.

6. So far as the issue regarding damage caused to the Tractor and injuries sustained by appellant No. 2 are concerned, the Tribunal has recorded that no evidence in support of the claim have been produced by the appellants. In the absence of cogent evidence on record in support of their claim, the appellants are not entitled for the said benefits. Hence, the Tribunal was justified in rejecting the claim of the appellants. I am in complete agreement with the reasonings given by and the findings recorded by the Tribunal in the impugned award and hence, find no reasons to interfere with the same.

7. Consequently, the appeal is dismissed. No order as to costs.