

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 4889 of 2018****With****CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2018****In R/FIRST APPEAL NO. 4889 of 2018**

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UNITED INDIA INSURANCE CO. LTD.**Versus****KEVALJI LUMBAJI HARIJAN(DABHI) & ORS.**

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Appearance:**MR RATHIN P RAVAL(5013) for the Appellant(s) No. 1****MR. MAYANK CHAVDA, AGP for the Defendant(s) No. 7****MR HIMANSU M PADHYA(1611) for the Defendant(s) No. 1,2,3,4****MR VISHAL C MEHTA(6152) for the Defendant(s) No. 6****NOTICE SERVED for the Defendant(s) No. 5,8,9**

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CORAM:HONOURABLE MR. JUSTICE SANDEEP N. BHATT**Date : 22/07/2024****ORAL ORDER**

1. The appellant – insurance company has preferred the present appeal raising certain issues and pursuant to that, the hearing has taken place.

2. Ms. Arpita Patel, Superintendent of Police, State Traffic Branch on behalf of Office of the Director General of Police as well as Mr. Ashish Parmar, Assistant RTO, RTO Ahmedabad have remained present before this Court.

3. Heard learned advocate Mr. Rathin Raval for the appellant. He has pointed out several problems in the urban

areas as well as on the highways, whereby, the occupants of the vehicles are found more than the permissible limit and also the issue regarding uninsured vehicle plying on the highways as well as in the city areas.

4. On the earlier occasion also, when three responsible Officers of the rank of Deputy Commissioner of Police, Ahmedabad were personally remained present, this Court had indicated that the system is required to be improved with a view to see that some meaningful implementation of the laws are done by the concerned authorities. Today, report is submitted by the Police Department indicating that they are now holding the seminars and they are also trying to improve the functioning of the Police Department, more particularly, regarding the violation of the Traffic Rules by the vehicles of various categories, more particularly, vehicles like Luxury Buses, Dumpers, School Auto-Rickshaws, School Vans, Jeeps and other vehicles which are though having parsing as a private vehicle and are plying for the commercial activity by collecting fares from the passengers and plying the vehicle by allowing more passengers than the sitting capacity of that particular vehicle/s. Such incidents have repeatedly come before this Court, whereby, the accident occurred due to use of such motor-vehicle and either Court has to fasten the liability on the Insurance Company or

Court has to exonerate the Insurance Company, depending upon the facts of such cases, but, ultimately due to inaction or deficiency in taking proper action on the part of the State Authorities i.e. RTO, Police, more particularly, Traffic Police and also inaction on the part of proper execution at the hand of Home Department of the State who is the ultimate supervising authority in these matters. This creates such anarchy in the system and due to that, ultimately, either the Insurance Company has to suffer or claimants are not in a position to recover the amount of the compensation, though they get injured in such accidents. This is a very serious situation which requires immediate attention of the concerned Authorities.

5. Let the concerned Authorities shall file detailed affidavit providing the details about the action they have taken in the recent past and also regarding the details about their future plan of actions to be taken with a view to improve the situation to a satisfactory level. The affidavit shall be filed giving the details that in the case of a major default, the accountability of the concerned Officer of that particular area should be fixed for such repeated accidents and also, non-observation of the Rules, more particularly, the Traffic Rules or such erring person who are plying the vehicles.

6. The loopholes and leakages in the system are required to be addressed properly, and thereby, required to be redressed accordingly.

7. Let the Regional Transport Office as well as Commissioner of Transport shall individually file detailed affidavit to produce on record the proposed action/s to curb such illegal plying of the vehicles, more particularly, which are without permit or without insurance or by carrying more passengers than the permissible limit in such cases.

8. Office of the Director General of Police, Gujarat Police and Officer of the highest rank who is looking after the State Highways as well as Commissioner of Police, Ahmedabad City shall look into the matter very seriously.

9. The Officer from the Home Department of the State not below the rank of Secretary as well as the Director General of Police, Gujarat Police shall file affidavit, giving details about the proposed future plan of actions to be taken by such authorities to improve the prevailing situation and such Officers who are responsible for implementation of the Statutory Provisions of Law are also required to be held liable in case of any major default.

10. The report shall be produced by way of affidavit of all the authorities which are mentioned above after deliberation with the concerned Officers with regard to the future plan of actions as well as aspect of accountability.

11. The authorities concerned shall also consider the aspect of proper staff required for proper implementation of provisions of law in its truest manner.

12. Such affidavit/s shall be filed within a period of three weeks from today.

13. Re-list this matter on **14.08.2024**, for further consideration.

14. It is expected that some of the responsible Officers from the Home Department of the State, Office of the D.G.P., Police Department as well as R.T.O. shall remain present on the next date of hearing to assist this Court, wherever, it is required.

(SANDEEP N. BHATT,J)

SLOCK BAROT