IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 2228 of 2017

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE J. C. DOSHI

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Approved for Reporting	Yes	No
		No

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ORIENTAL INSURANCE COMPANY LTD
Versus
PURNA JAYRAM ALIAS JAYSINH SUNAR & ORS.

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Appearance:
MS DIMPLE A THAKER(6838) for the Appellant(s) No. 1
HCLS COMMITTEE(4998) for the Defendant(s) No. 1
MR M D RAHEVAR(6268) for the Defendant(s) No. 1
MR. HARDEEP L MAHIDA(7112) for the Defendant(s) No. 2
MS JK HINGORANI(2491) for the Defendant(s) No. 3

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CORAM:**HONOURABLE MR. JUSTICE J. C. DOSHI**

Date : 24/08/2026

JUDGMENT

1. Heard learned advocate Ms. Dimple Thaker for the appellant and learned advocate Ms. J.K. Hingorani for respondent No.3. Learned advocates for the remaining respondents are absent.

2. By way of this appeal under section 30 of the Employees' Compensation Act, 1923 ("the Act", for short), the appellant-Insurance Company has challenged the judgment and order

passed by the learned Commissioner for Workmen Compensation Act and Judge, Labour Court, Junagadh ("the authority", for short) in Workmen Fatal Case No.6 of 2012 dated 20.08.2015 whereby, the authority has allowed the claim petition and has directed the appellant-Insurance Company to pay compensation of Rs.5,34,504/- along with interest at the rate of 9% per annum from the date of incident till its realization to the original claimants.

3. The facts of the case are not in dispute and therefore, this Court has not burdened the judgment by reproducing the facts.

4. Learned advocate Ms. Dimple Thaker appearing on behalf of the appellant-Insurance Company has raised a solitary issue that under the Insurance Policy issued by the appellant-Insurance Company in favour of respondent No.3-employer, the appellant is not liable to pay any interest on the amount of compensation. Reference was made to the provisions of sections 3 and 4 of the Act, as explained by the Hon'ble Supreme Court in the judgment rendered in the case of **New India Assurance Company Ltd. v. Harshadbhai Amrutbhai Modhiya** reported in **2006 (5) SCC 192**, to submit that the authority has committed serious error in law in saddling the

liability of interest upon the appellant-Insurance Company. Mainly on the above submission, it was submitted to allow the appeal by discharging the appellant-Insurance Company from the liability to pay interest on the amount of compensation.

5. On the other hand, learned advocate Ms. J.K. Hingorani for respondent No.3-employer submitted to pass necessary orders having considered the position of law as well as the terms and conditions of the Insurance Policy especially the provisions relating to workmen liability.

6. Having heard the learned advocates for both the sides and having gone through the Insurance Policy, the Court finds that the Insurance Policy covers the risk of employees working with respondent No.3-employer. It is apparent from the Policy produced on record that it is an employer liability policy whereby, under the caption "Exception", in clause-(f), it has been provided that *"any interest and / or penalty imposed on the insured on account of his / their failure to comply with the requirement laid down under the W.C. Act, 1953"*. From the said provision, it is evident that while purchasing the risk of employees, the respondent No.3-employer has not purchased the risk of payment of any interest or penalty and that no amount of premium has also been paid for covering such risk.

Thus, evidently, the appellant-Insurance Company is not liable to pay any interest on the amount of compensation.

7. The Hon'ble Supreme Court in the case of New India Assurance Company Ltd. (supra), more particularly, in para-23, has observed thus;

> "23. The law relating to contracts of insurance is part of the general law of contract. So said Roskill Lord Justice in Cehave vs. Bremer. This view was approved by Lord Wilberforce in Reardon Smith vs. Hanson-Tangen, wherein he said "it is desirable that the same legal principles should apply to the law of contract as a whole and that different principles should not apply to the different branches of that law". A contract of insurance is to be construed in the first place from the terms used in it, which terms are themselves to be understood in their primary, natural, ordinary and popular sense. A policy of insurance has therefore to be construed like any other contract. On a construction of the contract in question it is clear that the insurer had not undertaken the liability for interest and penalty, but had undertaken to indemnify the employer only to reimburse the compensation the employer was liable to pay among other things under the

Workmen's Compensation Act. Unless one is in a position to void the exclusion clause concerning liability for interest and penalty imposed on the insured on account of his failure to comply with the requirements of the Workmen's Compensation Act of 1923, the insurer cannot be made liable to the insured for those amounts.”

8. In view of the aforesaid factual aspects and since the appellant-Insurance Company has not contracted for the liability to pay interest, it cannot be saddled with the liability to pay interest. Unfortunately, the authority concerned has not decided this issue and without referring to the provisions of law so also the terms and conditions of the Policy, has unjustifiably imposed the liability to pay interest upon the appellant-Insurance Company, which is illegal and erroneous. Hence, the said direction to pay interest deserves to be quashed and set aside.

9. For the foregoing reasons, the appeal is partly allowed. The impugned judgment and order passed in Workmen Fatal Case No.6 of 2012 dated 20.08.2015 is modified to the extent that the appellant-Insurance Company is held liable to make payment only of the amount of compensation of Rs.5,34,504/-, whereas, the respondent No.3-employer is held to pay interest

on the said amount of compensation from the date of incident till its realization. If the appellant-Insurance Company has deposited any amount, in excess of the amount as directed by the authority concerned, then the same shall be refunded to the appellant through NEFT or RTGS. The principal amount deposited by the appellant-Insurance Company shall be paid to the original claimants after passing necessary orders of disbursement, if required. As regards interest, the original claimants shall be entitled to recover the same from respondent No.3-employer by executing this order. No order as to costs. Record and proceedings, if lying here, be sent to the trial Court concerned forthwith.

(J. C. DOSHI, J)

PRAVIN KARUNAN