IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAF) NO. 4771 OF 2017
AND
FIRST APPEAL ST. NO. 25387 OF 2017
(UNITED INDIA INSURANCE CO. LTD....VS.. JIJABAI BHASKAR SHELKE & ANR.)

- -

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

- -

Shri A.W.Paunikar, Advocate for Applicant.

CORAM : Z.A.HAQ, J.
DATED : SEPTEMBER 14, 2018.

CIVIL APPLN.NO.4771/2017.

Though served, none appears for the non-applicants/ respondents.

Accepting the explanation given in the application, delay of 203 days in filing the appeal is condoned.

Civil Application is **allowed** accordingly. No costs.

FIRST APPEAL ST.NO.25387/2017.

Taken up for hearing on admission.

The appellant/Insurance Company has challenged the award passed by the Motor Accident Claims Tribunal upholding the claim of the claimant for compensation of Rs.85,800/- for the injuries suffered by him in the accident involving the vehicle owned by the respondent No.2 and insured with the appellant/ Insurance Company at the relevant time.

The award is challenged mainly on the ground that the finding recorded by the Tribunal that the vehicle involved in the accident was insured with the appellant is not sustainable. According to the Insurance Company, the cheque given by the owner of the vehicle was not honoured and as per the conditions of the policy, the policy stood cancelled on dishonour of the cheque. According to the Insurance Company, the notice was given to the owner of the vehicle informing that the policy stood cancelled as the cheque was not honoured and similar notice was also given to Regional Transport Officer.

In paragraph 14 of the impugned award, the Tribunal has dealt with the evidence on this point and has recorded that the notice was issued by the Insurance Company much after the accident took place and the notice was not issued immediately after dishonour of the cheque. The facts on record show that the accident took place on 21^{st} November, 2009 and the notice intimating the owner about dishonour of the cheque was issued on 23^{rd} December, 2009. The Tribunal has further recorded that the cheque was not dishonoured for want of sufficient amount in the account of the owner of the vehicle but was dishonoured for some technical reason and it shows that the owner did not intend that the cheque should be dishonoured. It is not the case of the Insurance Company that the Tribunal has wrongly considered the evidence on record or has not considered some material and relevant evidence on record which vitiates its conclusions.

Though the Insurance Company has also challenged the conclusions of the Tribunal regarding quantum of compensation receivable by the claimant, I find that the calculations undertaken by the Tribunal in paragraph No.22 of the impugned award cannot be faulted with.

In the above facts, I see no reason to interfere with the impugned award. The appeal is **dismissed**. No costs.

CIVIL APPLN.NO.4772/2017.

The amount deposited by the appellant/ Insurance Company with the Registry of this Court along with interest on it, if any, be given to the respondent No.1/ claimant as per the impugned award.

The civil application is **disposed** accordingly. No costs.

JUDGE

RRaut..