IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.699 OF 2019

	Reliance General Insurance Co. Ltd.,	)	
	4th Floor, Chintamani Avenue, Off	)	
	Western Express Highway, Next to	)	
	Virwani Industrial Estate,	)	….Appellants
	Goregaon (E), Mumbai 400 063.	)	
	Versus		
1	Khodidas Shivji Lakum.	)	
	Age 38 years, Father of deceased.	)	
2	Hansa Khodidas Lakum,	)	
	Age 34 years, Mother of deceased.	)	
3	Jignysa Khodidas Lakum,	)	
	Age 19 years, Sister of deceased,	)	
	All R/o 2/39 BIT Chawl Tadwadi,	)	
	St. Marry Road, Mazgaon,	)	
	Mumbai 400 010.	)	
4	Moin Ahmad,	)	
	R/o Vasai Village, Vasai Road,	)	
	Dist. Thane Pin 401 201.	)	….Respondents

Ms. Poonam Mital , Advocate for the Appellant.
Mr. D. S. Joshi i/b. Ms. Swati Uday Mehta, Advocate for Respondent Nos.1, 2 and 3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 5th APRIL, 2023.

Oral Judgment :

1. The issue involved in this appeal is dishonour of cheque which was paid as premium of insurance policy.

2. It is contention of learned counsel for the appellant that the cheque, which was issued by the owner of the offending vehicle as insurance premium, was dishonoured. The said fact was informed to the owner of the offending vehicle and RTO and accordingly, insurance policy was cancelled but this fact is not considered by the Tribunal and the Tribunal has awarded exorbitant and excessive compensation. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondents/claimants that to prove their defense, the appellant examined witness – Priyank Shah at Exhibit 37. He has stated that there is no mention of the name of the party and the number of the vehicle and no notice was given to the owner of the vehicle and intimation was not given to the Regional Transport Office. The appellant has not complied the mandatory requirements as per the law laid down by the Apex Court in the case of ***United India***

Assurance Co. Ltd. Versus Laxmamma 2012 (5) SCC 234. Hence, requested to dismiss the appeal.

4. I have heard both learned counsel. Perused the judgment and order passed by the Motor Accident Claims Tribunal, Mumbai (for short "the Tribunal").

5. The issue involved in this appeal is dishonour of cheque, which was given as premium of insurance policy. To prove the defense, the appellant examined Priyank Shah at Exhibit "37" who was working as a legal manager in the appellant company. He stated that the premium was paid by cheque. The said cheque was dishonoured on account of insufficient funds. He further stated that the company has not issued letter to the owner and RTO about dishonour of cheque. In cross-examination, he admitted in the letter at Exhibit "38", there is no mention of name of the party and the number of vehicle. This witness admitted that no letter was issued to the owner of the vehicle and RTO. It is settled principle of law that after dishonour of cheque which was issued as a premium of insurance policy, notice has to be given to the owner of the offending vehicle and it is necessary to given intimation of it to the concerned RTO about cancellation of the insurance policy but the

appellant has not done it as appellant has not complied the mandatory requirements laid down by the Hon'ble Apex Court in case of ***Laxmamma (supra)***, hence, the order passed by the Tribunal is proper.

6. It is contention of learned counsel for the claimants that there are three claimants. The Tribunal has awarded Rs.30,000/- for love and affection, Rs.10,000/- for funeral expenses and Rs.15,000/- for loss of estate, it comes to Rs.55,000/-. As per the view of Hon'ble Apex Court in the case of ***Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018 ACJ 2782 (SC)***, each claimant is entitled for Rs.40,000/- as consortium, Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate. There are three claimants, the total comes to Rs.1,50,000/-. If amount of Rs.55,000/- awarded by the Tribunal is deducted from Rs.1,50,000/-, it comes to Rs.95,000/-. The claimants are entitled for this amount.

7. In view of above, I pass following order :

1. The appeal is dismissed. No order as to cost.

2. The claimants are entitled for additional amount of Rs.95,000/- at 7.5% interest per annum from 1st October 2017 till realisation of the amount.

3. The appellant-Insurance Company is directed to deposit an amount of Rs.95,000/- within six weeks from the receipt of this order.

4. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.

5. The statutory amount along with accrued interest thereon be transmitted to the Tribunal. The parties are at liberty to withdraw it.

8. Pending applications, if any, stands disposed of.

(SHIVKUMAR DIGE, J.)