

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.715 OF 2023

Reliance General Insurance Co. }
570, Rectifier House, In-Origin Electric }
Ltd., Naigaon Cross Road, Wadala, }
Mumbai-400 031. }Appellant

V/s.

1. Mr.Tushar Anant Kolte }
R/at Flat No.5/9, Heritage Parody No.1, }
Sai Nagar, Tulaskarwadi, M.G. Road }
No.1, Kandivali (W), Mumbai- 400 067 }
2. M/s.Balaji Tours & Ravels }
Proprietor Sanjay Chelladurai Gandhi }
A/200 Samarth Manzil, R.P. Marg, Kalher }
Village, Taluka-Bhiwandi, Thane, }
Maharashtra. }Respondents

**NILAM
SANTOSH
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Ms.Shalini Shankar, for the Appellant.

Mr.Saumen S. Vidyarthi a/w Ms.Ishita Bhole, for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 7th DECEMBER 2023

JUDGMENT :-

1. The issue involved in this Appeal is, cheque which was given as a premium of the Insurance Policy was dishonored.

2. It is contention of the learned counsel for the

Appellant that, the owner of the offending vehicle had issued a cheque as a premium of Insurance Policy but said cheque was dishonored. Hence, the policy issued by the Insurance Company was *ab-inito*. But this fact is not considered by the Tribunal and passed the impugned order which is not proper. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for Respondent No.1 that, no notice was given to the owner of the offending vehicle in respect of dishonor of cheque. No evidence led before the Tribunal by the Appellant-Insurance Company to prove that cheque was dishonored. Hence, requested to dismiss the Appeal.

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

5. It is contention of the learned counsel for the Appellant that, the cheque which was given as a premium of Insurance Policy was dishonored. But no evidence was produced in that regard before the Tribunal. Moreover, no notice was

issued to the owner of the offending vehicle, informing him about cheque was dishonored. In absences of the evidence or no notice given to the owner of the offending vehicle, the contention of the learned counsel for the Appellant cannot be accepted.

6. In view of the above, I pass following order.

ORDER

- (i) The Appeals is dismissed. No order as to cost.
- (ii) The Respondents-Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
- (iii) The Statutory amount be transferred to the Tribunal. The parties are at liberty to withdraw it, as per Rules.
- (iv) Pending Civil/Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)