

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 29 OF 2020**

The New India Assurance Co Ltd.	}	
RO II, Jeevan Seva, 2nd Floor,	}	
Santacruz (W), Mumbai 400 054.	}	..Appellant
Versus		
1 Naina Alpesh Hariya	}	
Age 25 yrs at present residing at	}	
Sankalp Coop Hsg. Society Ltd,	}	
Room No.3, Ground Floor, Amrut	}	
Nagar, Ghatkopar West,	}	
Mumbai 400 086.	}	
2 Amnadas Nathudas Vasinay	}	
Asta Vinayak Pada,	}	
Tugareswar Road, Estinar Comp,	}	
Sativali Vasai, District Thane,	}	
Thane 400 601 (Owner of the vehicle	}	
bearing No. Mh-04-CG-1529)	}	Respondents

Ms. Poonam Mital, Advocate for the Appellant.

Ms. Varsha Chavan, Advocate for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th MARCH 2023.

Oral Judgment :

1. The issue involved in this appeal is dishonor of cheque which was given as a premium of insurance policy.
2. It is contention of learned counsel for the appellant that owner of the offending vehicle had given cheque as a premium of insurance policy but it was dishonoured. This fact was proved before the Tribunal but Tribunal has not considered this fact and has awarded exorbitant and excessive compensation. Hence, requested to allow the appeal.
3. It is contention of learned counsel for respondent No.1 that no witness was examined to prove that notice of dishonour of cheque was issued to the insured and RTO office. Hence, the order passed by the Tribunal is legal and valid.
4. I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal (for short "the Tribunal").

5. It is contention of learned counsel for the appellant that notices were sent to the insured and RTO officer but from the record it reveals that no notices were sent to the owner of the offending vehicle and RTO about dishonor of cheque and cancellation of insurance policy. While deciding this issue, the Tribunal has observed that insurance company failed to prove the defence taken by them about dishonour of cheque by placing documents on record or examining any witness. I do not find any infirmity in it.

6. In view of above, appeal is devoid of merit. Hence, I pass following order :

O R D E R

1. The appeal is dismissed. No order as to cost.
2. The claimant is permitted to withdraw deposited amount along with accrued interest thereon.
3. Statutory amount along with accrued interest thereon be transmitted to the Tribunal. Parties are at liberty to withdraw the same as per Rule.
7. Pending applications, if any, stand dispose of.

(SHIVKUMAR DIGE, J.)