IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1437 OF 2012

ICICI Lombard General Insurance)
Company Limited Corporate Office)
4th Floor, Peninsula Building)
Opp.Lawrence & Maye Building)
Mumbai-400001) ...Appellant
(Ori. Respondent)

Versus

1. Mrs.Ashwini Anand @ Anand Tare)
   Age: 20 years, Occu: Household)

2. Master Mehul Anand @ Anand Tare)
   Age: 9 years, Occ-Nil)

3. Mrs.Jayawanti Waman Tare)
   Age: 50 years, Occ-Household)
   As the Applicant No.2 being minor)
   Hence he is represented by the Applicant)
   Being his mother and natural guardian)
   All R/at Khan wade,)
   Tal-Vasai, Dist.Thane)

4. Mr.Janardan P.Gotarane)
   At Gates, Post Kone,
   Tal-Wada, Dist.Thane)
   Pin-421301.)...Respondents
   (R.No.1 to 3 Original Claimants & R.No.4 Orig. opponent No.1)

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Mr. Rahul Mehta i/by KMC Legal Venture for the Appellant.
Ms. Rina Kundu for Respondent Nos.1 to 3.

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CORAM : SHIVKUMAR DIGE, J.

DATED : 30th MARCH, 2023

<u>JUDGMENT</u> :

1. The issue involved in this Appeal is dishonour of cheque.

2. The learned counsel for the Appellant submits that, the insured had paid the premium of insurance policy through cheque, but said cheque was dishonoured. The notice was sent to the insured and intimation was given to RTO Office about the dishonour of cheque and cancellation of the insurance policy. This fact was proved before the Tribunal, but Tribunal has not considered it and has awarded exorbitant an excessive compensation. Hence, requested to allow the Appeal.

2. The learned counsel for the Respondents-Claimants submits that while passing order, the Tribunal has considered all the aspects and on that basis, compensation is awarded. Hence, no interference is required in it.

3. I have heard both the learned counsel. Perused the judgment and order passed by the Motor Accident Claims Tribunal, Thane (for short 'The Tribunal'), while dealing with the issue of dishonour of cheque and notice given to the insured and intimation given to the RTO, the Tribunal has observed that as per the view of Hon'ble Apex Court in the case of ***<u>Oriental Insurance Company</u>***

Limited vs. Inderjit Kaur and Ors[1]., whether the Insurance Company is liable for the third party risk has held that despite the bar created by Section 64VB, the Insured Company issued a policy to cover bus without receiving the premium by reasons of provisions of Section 147 (5) and 149 (1), the Insurance Company became liable to indemnify third party liability. As per view of Hon'ble Apex Court in the above case, the Tribunal has directed the Appellant to pay the compensation. I do not find any infirmity in it.

4. The learned counsel for the Appellant submits that as this Court is dismissing the Appeal of Appellant, the claimant shall not file Appeal for enhancement of compensation or getting future prospects. The learned counsel for the Respondent-claimant submits that the claimant would not file Appeal for enhancement of compensation or getting future prospects. Her statement is accepted.

5. In view of the above, I pass following order :

O R D E R

(i) The Appeal is dismissed. No order as to cost.

(ii) The claimants are permitted to withdraw deposited amount along with accrued interest thereon.

(iii) The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per rule.

(SHIVKUMAR DIGE, J.)

1 Civil Appeal No.8570 of 1997