IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1155 OF 2008

United India Insurance Co. Ltd.	}	
MRO-II, Maker Bhavan No.2,	}	
V.T. Marg, New Marine Lines,	}	
Mumbai- 400 020	}	**...Appellant**

Versus

1. Mahesh Giriappa Devadiga	}	
R/at Kashmiri Chawl No.3/2, Majas	}	
Road, Jogeshwari (East),	}	
Mumbai-400 060	}	
2. Shri.Ashok K. Pawar	}	
C/o. R.G. Pardeshi,	}	
1260, Guruwr Peth, Talegaon,	}	
Dabhade, Pune-410 507.	}	**...Respondents**

Mr.Rahul Mehta i/b Mr.KMC Legal Venture, for the Appellant.
Mrs.Vandana Jaisingh, for Respondent No.1.

CORAM : S.G. DIGE, J.

DATE : 14 FEBRUARY 2023

JUDGMENT :-

. The issue involved in this Appeal is dishonor of cheque which was paid as a premium of Insurance Policy.

2. It is contention of learned counsel for the Appellant that the premium of Insurance Policy was paid through cheque, which was dishonored. The intimation was given to the insured about dishonor of the cheque. The intimation was also given to the RTO Officer. The policy was cancelled for non-payment of the premium amount. But these facts are not considered by the Tribunal and awarded the compensation, which is illegal and improper. Hence, requested to allow the Appeal.

2. It is contention of learned counsel for the Respondent-Claimants that Tribunal has considered all the aspects while awarding the compensation though the cheque was dishonored, no notices were sent to the insured or RTO within reasonable time. Hence, the order passed by the Tribunal is legal and valid.

3. I have heard both learned counsel. Perused judgment and order passed by the Tribunal.

4. It is contention of the learned counsel for the Appellant that the cheque by which premium of Insurance Policy was paid was dishonored, hence, Insurance Policy was cancelled from the inception. To prove case, the Appellant examined their Administrative Officer Kumar N. Ahuja at Exhibit-22. He stated that on 17 November 2000 the insurer issued a letter to the

insured regarding dishonor of cheque. He further stated that the RTO was informed about the dishonor of the cheque by letter dated 11 April 2002. Their Advocate issued a letter dated 16 June 2003 to the insured informing him about dishonor of cheque. The office copy of the letter is at Exhibit-25 and postal acknowledgment is at Exhibit-26. He further deposed that the cheque was issued by the insured on 27 October 2000 for an amount of Rs.3,075/- and the same was dishonored because of insufficient fund.

5. In cross-examination this witness admitted that they did not receive postal acknowledgment of service of letter of cancellation of the policy. The accident is occurred on 28 December 2000 where as from the evidence of this witness it appears that RTO was informed about dishonor of cheque by letter dated 11 April 2002 and insured was issued a letter dated 16 June 2003 that is after two and half year of the accident. There is no postal receipt produced on record about the cancellation of policy issued to the insured. The Tribunal has observed that the insurer shall pay compensation and recover amount paid by the insurer by filing execution proceedings. The insured has not challenged the said order. I do not find any infirmity in it. The Appeal is devoid of merit and I pass following order.

ORDER

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

(ii) The Claimants are permitted to withdrawn the amount along with accrued interest thereon.

(iii) The statutory amount transferred to the Tribunal along with accrued interest. Parties are at liberty to withdraw it.

(S.G. DIGE, J.)