

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

FIRST APPEAL NO. 47/2023

The New India Assurance Co. Ltd. Through its Branch Manager, Nagpur
Vs.

Prabhakar S/o Haridas Patil and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri M.B. Joshi, Advocate for appellant
Shri N.Y. Lade, Advocate for respondent Nos. 1 & 2

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 02/08/2023

Heard learned Counsel for the appellant.

2. It is contended that the order passed by learned Claims Tribunal in Claim Petition No. 1068/2016, is totally erroneous and unjustifiable to the extent that it held respondent No.2, in the claim petition liable to pay jointly and severally the compensation amount with interest thereon at the rate of 6.5% per annum from the date of institution of the petition.

3. It is submitted that though cheque of the policy was issued by respondent No.1, it had dishonoured and therefore, insurance company is not liable to pay. However, it

appears that in spite of several opportunities, the respondent/ company failed to establish that the cancellation of policy or dishonoured of cheque is duly communicated to the respondent No.1. It is specifically observed by learned Claims Tribunal in paragraph No.15 of the judgment that the insurance company failed to prove that the policy came to be cancelled. In the present appeal also, the learned Counsel for appellant placed on record one xerox copy without there being any stamp of post office and address of respondent No.1. There is no postal receipt placed on record.

4. It is informed that original copy is not traceable. As such, the appellant is failed to make out any case to admit the matter. As such, there is no illegality in the order passed by learned Claims Tribunal. Accordingly, appeal stands dismissed.

5. The claimants/respondent Nos. 1 and 2 are at liberty to withdraw the amount as per award.

(SMT. M.S. JAWALKAR, J.)