IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.16 OF 2020

Reliance General Insurance Co. Ltd. 19, Reliance Centre, Walchand Hirachand Marg, Ballard Estate, Mumbai-400 038 Policy No.1116792343001723 Valid From 19-8-2009 to 18-08-2010	} } } } }	**...Appellant**

Versus

1. Mr.John N. Pinto Age-50 years, Deleted father of the deceased	} }	....Original Applicant
1.A Marlynn John Pinto Daughter & L.R. of Applicant No.1.	} }	
2. Mrs.Veronica John Pinto Aged-48 years (Mother of deceased) R/at : Room No.104, Silver Park, Opp Meera Bhayander Rd, Sunder Nagar, Dist- Thane.	} } } } }	
3. Shri.Rajendra Dukharam Jaiswal R/at Godown No.99, Mayashri Compound, Opp. IBP Petrol Pump, Purna Village, Bhiwandi, District-Thane. (Owner of M/Dumper No.MH-04-CG- 5943)	} } } } } } }	...Opp. Party (Resp No.1, 1a and 2 are ori. Applicant & Respondent No.3 is Orig. Opp. Party

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Ms.Shalini Shankar, for the Appellant.
Mr.T.J. Mendon, for Respondent No.1A and 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 12th JANUARY 2024

ORAL JUDGMENT :-

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

2. It is contention of the learned counsel for the Appellant that, the cheque which was issued as a premium of Insurance Policy by owner of the offending vehicle was dishonoured, due to payment stopped. The witnesses were examined to support the defence of Appellant-Insurance Company but evidence lead by the Appellant is not considered by the Tribunal. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Claimant that, no notice was given to the owner of the vehicle about dishonour of cheque. Moreover, the witness Pragati Hadkar, Legal Retainer of Reliance General Insurance Co. Ltd, who has been examined in support of the defence of the Appellant-Insurance Company. In her cross-examination admitted that, the letter was issued by the HSBC Bank on 16th

May 2016 in respect of dishonour of cheque and the Policy operated was effective from 19th August 2009 to 18th August 2010 i.e. after six years of the policy. The Tribunal has observed, these facts and on that basis order is passed, which is proper and no interference is required in it.

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

5. While dealing with the issue of dishonour of cheque the Tribunal has observed that, the Insurance Company has examined witness Pragati Hadkar at Exhibit-41, in support of their contention. She has admitted in cross-examination that present Insurance Policy was issued for the period of 2009-2010 and bank has not informed the Insurance Company that insured had stopped the payment of the cheque regarding premium of amount. She further admitted that, Insurance Company has not cancelled the policy in question and not intimated the RTO regarding the same. She further admitted that, Insurance Company has deposited NFL amount in the said matter and the

said NFL order is not challenged by insurer. Considering the evidence on record the Tribunal has passed Judgment and Order. I do not find infirmity in the observations of the Tribunal as, during policy period the Insurance Company has not cancelled the Policy nor about dishonour of cheque it was intimated to RTO. The Appeal is devoid of merit.

6. The Tribunal has not awarded consortium amount. As per view of the Hon'ble Apex Court in the case of ***Magma General Insurance Co. Ltd. V/s. Nanu Ram***[1]**,** each Claimant is entitled for consortium amount. There are two Claimant's. They are entitled for Rs.96,000/- as consortium amount.

7. In view of above, I pass following order.

ORDER

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

(ii) The Claimants are entitled for enhanced amount of Rs.96,000/- @ 7.5% from 1st November 2017 till realization of the amount.

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(iii) The Appellant shall deposit enhanced amount along with accrued interest within six weeks after receipt of the order.

(iv) The Claimant's are permitted to withdraw the deposited amount.

(v) The statutory amount be transferred to the Tribunal. The parties are at liberty to withdraw it, as per Rules.

(vi) Pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)