

SUPREME COURT OF INDIA

National Insurance Co. Ltd.

Vs.

Balkar Ram & Ors.

C.A.No. 2159 of 2007

(Gyan Sudha Misra and Kurian Joseph JJ.)

09.07.2013

ORDER

GYAN SUDHA MISRA, J.

1. This appeal has been preferred by way of special leave against the judgment and order passed by the High Court of Punjab and Haryana in F.A.O. No. 2941 of 2004 dated 28.09.2004 wherein the appeal filed by the Appellant-insurance company was dismissed holding therein that the intimation by the Appellant-Insurance Company regarding dishonor of the cheque towards the issuance of policy was communicated to the policyholder after the accident. Hence, it was liable to pay the compensation to the claimants/ Respondents and it could not recover the same from the owner.

To clarify the position, it may be stated that the vehicle which was insured with the appellant met with an accident and a compensation of Rs.1,24,035/- was ordered to be paid to the respondents-claimants along with interest and the owner as also the insurance company were jointly and severally held liable by the Motor Accidents Claims Tribunal ('Tribunal¹ for short) to pay the amount of compensation to the claimants.

2. The Appellant/Insurance Company assailed the award passed by the Tribunal essentially on the ground that the cover note for the policy of insurance was issued on 7.04.2000 for which a cheque was submitted by the owner. However, the cheque was dishonored by the bank on 17.04.2000. Subsequently, the vehicle which was insured with the appellant-insurance company met with an accident on 19.04.2000. The appellant-insurance company, therefore, contended that as the policy of insurance could not be held to be a valid document in view of the fact that the cheque towards the policy had been dishonored even before the accident had taken place, the insurance company was not liable to indemnify the claimants by paying the amount which fell into its share as per the Tribunal's award and it is the owner which is liable to pay the entire amount of compensation to the respondents/ claimants.

3. However, we compliment Ms. Kiran Suri, learned counsel for the appellant for cutting short the controversy by fairly pointing out the ratio of the judgment (2012)5 SCC 234 titled *United India Insurance Co. Ltd. Vs. Laxamma & Ors¹*. wherein it has been held that the insurance company is liable to satisfy the award if the intimation regarding the dishonor of the cheque and cancellation of policy is communicated to the policy-holder after the date of the accident. Thus, the defence of the insurance company that the policy of insurance was not valid since the cheque had been dishonored prior to the accident would not exonerate them from making the payment of compensation. In the matter, admittedly the accident had taken

place on 19.04.2000 and the cheque although had been dishonored prior to the accident on 17.04.2000, the intimation to the policy-holder had been given by the insurance company on 26.04.2000, in view of which the insurance company cannot be allowed to contend that the policy-holder was not holding a valid policy of insurance in regard to the vehicle which met with an accident. Admittedly, the policyholder had already issued another cheque substituting the cheque which had earlier been dishonored.

In that view of the matter and following the ratio of the judgment referred to hereinbefore, this appeal has no substance and accordingly it is dismissed. No order as to costs.