

A NATIONAL INSURANCE CO. LTD.

v.

BALKAR RAM & ORS.
(Civil Appeal No. 2159 of 2007)

B JULY 9, 2013

[GYAN SUDHA MISRA AND KURIAN JOSEPH, JJ.]

Motor Vehicles Act, 1988 – Motor accident – Claim for compensation – Liability of Insurance Company – Motor Accident Tribunal held Insurance company as well as the owner of the insured vehicle jointly and severally liable – Appeal dismissed by High Court – Plea of Insurance company that the policy holder was not holding valid policy because his cheque towards premium was dishonoured prior to the date of accident and hence insurance company not liable – Held: Though the cheque was dishonoured prior to the date of accident, intimation thereof was given to the holder after the accident – Therefore Insurance company was liable to pay the compensation.

E *United India Insurance Co. Ltd. vs. Laxmamma and Ors.*
(2012) 5 SCC 234: 2012 (5) SCR 261 – relied on.

Case Law Reference:

F **2012 (5) SCR 261** relied on **Para 4**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2159 of 2007.

G From the Judgment and Order dated 28.09.2004 of the High Court of Punjab & Haryana at Chandigarh in F.A.O. No. 2941 of 2004.

Kiran Suri, Nakibur Rahman Barbhuiya, Ritika Gambhir, Kirti Renu Mishra for the Appellant.

Ashok Mathur, Varinder Kumar Sharma for the Respondets. A

The following Order of the Court was delivered

O R D E R

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 dishonour of the cheque towards the issuance of policy was communicated to the policy-holder 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. B
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2. 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 ('Tribunal' for short)to pay the amount of compensation to the claimants. E

3. 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 dishonoured 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 dishonoured even before the accident had taken place, the insurance company was not liable to indemnify the claimants F
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A 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.

B 4. However, we compliment Ms. Kiran Suri, learned
C counsel for the appellant for cutting short the controversy by
D fairly pointing out the ratio of the judgment (2012) 5 SCC 234
E titled *United India Insurance Co. Ltd. Vs. Laxmamma & Ors.* wherein it has been held that the insurance company is liable to satisfy the award if the intimation regarding the dishonour 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 dishonoured prior to the accident would not exonerate them from making the payment of compensation. In this matter, admittedly the accident had taken place on 19.04.2000 and the cheque although had been dishonoured 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 policy-holder had already issued another cheque substituting the cheque which had earlier been dishonoured.

5. 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.

K.K.T.

Appeal dismissed.