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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 13.02.2023.

\+ MAC.APP. 816/2018, CM APPL. 37614/2018 (Stay)
IFFCO TOKIO GENERAL INSURANCE CO LTD
..... Appellant
Through: Mr. A.K. Soni & Mr. Pavan Kumar, Advs.

versus

MUNNA KUMAR & ORS ..... Respondents
Through: Mr. Manish Maini, Ms. Yashika Miglani & Mr. Vibhor Jain, Advs. For R-1

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present appeal under Section 173 of the Motor Vehicles Act,1988 preferred by the insurer seeks to assail the award dated 17.07.2018 passed by the learned Motor Accidents Claims Tribunal (South-West District), Dwarka Courts in MACP No. 1146/2017. Vide the impugned award, the learned Tribunal while awarding compensation of Rs. 2,04,000/- in favour of claimants has directed the appellant, who was the insurer of the offending vehicle to pay the said amount to the claimants and recover the same from the owner and driver of the vehicle.

2. Learned counsel for the appellant submits that even though a policy insuring the offending vehicle for the period between 26.04.2014 to 25.04.2015 had been issued on 25.04.2014, the said policy was cancelled on 07.05.2014 on account of the cheque towards the insurance premium having

been dishonoured. Information in this regard was not only furnished to the insurer but also to Regional Transport Office (RTO) on 07.05.2014 itself. Consequently, on the date of the accident i.e. 01.07.2014, there was no valid insurance policy and therefore, the appellant could not be held liable to pay any compensation to the claimant. In support of his plea he places reliance on the decision of the Apex Court in ***United India Insurance Co. Ltd. v. Laxmamma,* (2012) 5 SCC 234.**

3. On the other hand, learned counsel for the respondent/claimant while not disputing the above aforesaid factual position submits that the appellant not having given any information to the RTO about the policy having been cancelled, the learned Tribunal has rightly held that the appellant was liable to pay compensation and thereafter recover the same from the owner and driver of the offending vehicle.

4. Having considered the submission of learned counsel for the parties, I find that even though appellant had before the learned Tribunal made a bald statement that office of the RTO was informed about the dishonour of the cheque towards the premium payable under the insurance policy, no evidence was led by the appellant to show that any such communication as claimed, was in fact issued or served on the RTO. Even before this Court, the learned counsel for appellant had not been able to point out anything to show that information regarding the dishonour of the cheque was given to the RTO.

5. In the light of these admitted facts, I have no hesitation in holding that there was no evidence before the Tribunal to support the appellant's plea that timely information regarding the dishonour of cheque towards premium and the policy being cancelled before the date of the accident had been given

to the RTO. The learned Tribunal can therefore not be faulted for directing the appellant to pay compensation to the claimant and then recover the same from the owner and driver of the offending vehicle.

6. In this regard, reference may be made to the decision of the Apex Court in ***Manuara Khatun v. Rajesh Kr. Singh,*** **(2017) 4 SCC 796** wherein in similar circumstances, the Apex Court had directed the insurer of the offending vehicle to pay the awarded compensation to the claimant and then recover the same from the owner of the offending vehicle.

7. I, therefore, find no merit in the appeal which is, accordingly, dismissed.

8. The Registry is directed to release in favour of the claimant/respondent no. 1, the entire amount deposited by the appellant along with accrued interest thereon. In case, the released amount falls short of the awarded amount, it will be open for the claimant to seek enforcement of the award as per law for recovery of the balance amount.

(REKHA PALLI)
JUDGE

FEBRUARY 13, 2023
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