M.A.C. Case No.115 of 2021.
Computer Regn. No.115/2021.
C.N.R No.WBDD01-001670-2021
J.O Code-WB00822

Order No.09.

28.06.2023. Today is fixed for passing order of the petition dt. 22.11.2022 filed by the O.P./The New India Assurance Co. Ltd.

Petitioner and O.P., Insurance file hazira through their respective Ld. Advocates.

Accordingly the record is taken up for passing order.

O.P., the New India Assurance Co. Ltd. filed a petition on 22.11.2022 stating that the O.P., Insurance Co. on the relevant date of accident ie oon 01.06.2020 was not insured with the vehicle bearing No.W-61A/5377 (Pick up) with a valid and effective policy as the policy bearing No.51300131190100011935 for a period from 19-03-.2020 to 18-03-2021 for the said vehicle was cancelled from the inception ie 19.03.2020, 12-00-01 a.m. It is stated that the owner of the said vehicle namely Manish Raj Bhagat issued one account payee cheque vide No.931066, dt.17.03.2020 in favour of New India Assurance Co. Ltd., amounting to Rs.20372/-, State Bank of India, Phulbari Branch and the said cheque was dishonored on

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Contd. Order dt.28.06.2023

04.04.2020 and as such on 10.04.2020 one registered letter was sent to Manish Raj Bhagat, owner of the vehicle that the policy bearing No.51300131190100011935 for a period from 19-03-.2020 to 18-03-2021stand cancelled, since inception. As such the Insurance Co. has stated that at the time of accident the vehicle did not have a valid insurance policy, for plying the vehicle on public place, as such Insurance Co. is not liable and has prayed for expunging the name of O.P., Insurance Co. from the claim application.

Heard Ld. Advocate for the claimants and the Insurance Co.

Perused the application and materials on record.

At the time of hearing for he OP., Insurance Co. has referred a decision, reported in 1998 (1) ALD 394, in which against an order of compensation, passed by the Tribunal the Hon'ble Court was pleased to hold that Insurance policy was ineffective, for want of premium, as such the Insurance Policy had no liability to pay compensation.

I have carefully gone through the claim application, application under Order-1, Rule-10(2) filed by the O.P., Insurance Co. and materials available on record.

On careful perusal of the claim application I find that the claimants have claimed compensation from the owner of the offending vehicle as well as the O.P., New India Assurance Co. Ltd. The O.P., Insurance Co. by filing this petition has prayed for expunging its name from the claim application on the ground that the policy was cancelled from the very inception as the cheque for the premium amount was dishonored.

Having considered the facts and circumstance I am not inclined to allow the prayer for expunging the name of the O.P., Insurance Company at this stage. However, the O.P., New India Assurance Co. Ltd. shall be at liberty agitate the issue at the time of final hearing of the case.

Thus, the petition is dismissed at this stage.

To **21.08.2023** for W.O by the O.P., Insurance Co.

Dict. & Corr. by me.

JUDGE

Tribunal,
cum- Addl. Dist. & Sess. Judge, F.T.C.,
Balurghat, Dakshin Dinajpur.