HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 3814/2015

Bajaj Allianz General Insurance Company Ltd. having its Registered Office At GE Plaza, Airport Road, Yarawada, Pune - 411006 And Having Its Regional Office At O-12 A, Second Floor, Ashok Marg, Mundra Tower, C-Scheme, Jaipur Through Its Constituent Attorney

----Appellant/Non-Claimant

Versus

1. Chandu Alias Chandu Lal S/o Shri Lila Ram, aged about 43 years. (Since Deceased)

1/1. Smt. Vimla Devi W/o Late Shri Chandu alias Chandu Lal, aged about 37 years,

1/2. Chand S/o Late Shri Chandu alias Chandu Lal, aged about 16 years,

1/3. Shivani D/o Late Shri Chandu alias Chandu Lal, aged about 12 years,

1/4. Smt. Basanti Devi W/o Shri Lila Ram, aged about 61 years

1/2 and 1/3 being minor represented through natural guardian and mother Smt. Vimla Devi.

All R/o Near Pani Ki Tanki, Harijan Basti, Naya Sahar, Kishangarh, P.S. Kishangarh, Tehsil Kishangarh, District Ajmer.

----Claimants/Respondents

2. Girdhari Lal S/o Shri Ganga Ram, aged about 41 years, R/o Titarwalao Ki Dhani, Padasoli, P.S. Dudu, District Ajmer.

Registered Owner And Driver Trailer Vehicle No. RJ-14-GB-9465

----Non-Claimants/Respondents

For Appellant(s) : Mr. Chanderdeep Singh Jodha, Adv.

For Respondent(s) : Mr. Aatish Jain, Adv.

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

Order

07/05/2026

1. This appeal has been filed by the appellant-Insurance Company against the judgment and award dated 02.07.2015 passed by learned Motor Accident Claims Tribunal, Kishangarh, District Ajmer (Rajasthan) in Claim Case No. 342/2008 titled as Chandu alias Chandu Lal & Ors. Vs. Girdhari Lal & Anr., whereby, the claim petition filed by the respondent-claimant Nos. 1/1 to 1/4 has been partly allowed and an award of Rs.8,31,720/- along with interest @ 6% per annum has been passed in favour of the respondents-claimants.

2. Learned counsel for the appellant-Insurance Company submits that this appeal has been filed on the ground that the insurance policy of the offending vehicle Trailer No. RJ-14-GB-9465 was issued in favour of respondent No.2-Girdhari Lal on receipt of the cheque of premium amount. The policy was issued to cover the liability from 08.03.2008 to 07.03.2009, however, the cheque which was given by the owner of the offending vehicle was subsequently dishonoured. Therefore, the insurance company is not liable to pay any amount of compensation because the policy was void *ab initio* for want of premium. Learned counsel prays that the appeal be allowed and the insurance company be exonerated.

3. On the other hand, learned counsel appearing on behalf of the claimants-respondents submits that the notice of dishonour of cheque was given by the company to the owner of the offending vehicle after the date of accident i.e. 04.08.2008. Therefore, considering the third party claim, the insurance company cannot

claim exemption from the liability, hence, it is liable to satisfy the award amount as per the principles laid down by the judgment passed by the Hon'ble Apex Court in this regard.

4. Learned counsel for the claimants-respondents has drawn the attention of this Court towards the judgment of the Hon'ble Apex Court in case of **Oriental Insurance Co. Ltd. Vs. Inderjit Kaur & Ors.** reported in **(1998) 1 SCC 371,** wherein it has been held as under:-

> "9. We have, therefore, this position. Despite the bar created by Section 64-VB of the Insurance Act, the appellant, an authorised insurer, issued a policy of insurance to cover the bus without receiving the premium therefor. By reason of the provisions of Sections 147(5) and 149(1) of the Motor Vehicles Act, the appellant became liable to indemnify third parties in respect of the liability which that policy covered and to satisfy awards of compensation in respect thereof notwithstanding its entitlement (upon which we do not express any opinion) to avoid or cancel the policy for the reason that the cheque issued in payment of the premium thereon had not been honoured.
> 10. The policy of insurance that the appellant issued was a representation upon which the authorities and third parties were entitled to act. The appellant was not absolved of its obligations to third parties under the policy because it did not receive the premium. Its remedies in this behalf lay against the insured."

5. Learned counsel for the claimants-respondents have also placed reliance towards the another judgment of the Hon'ble Apex Court in case of **United India Insurance Co. Ltd. Vs. Laxmamma & Ors.** reported in **(2012) 5 SCC 234**, wherein it has been held as under:-

> "**26.** In our view, the legal position is this: where the policy of insurance is issued by an

authorised insurer on receipt of cheque towards the payment of premium and such a cheque is returned dishonoured, the liability of the authorised insurer to indemnify the third parties in respect of the liability which that policy covered subsists and it has to satisfy the award of compensation by reason of the provisions of Sections 147(5) and 149(1) of the MV Act unless the policy of insurance is cancelled by the authorised insurer and intimation of such cancellation has reached the insured before the accident. In other words, where the policy of insurance is issued by an authorised insurer to cover a vehicle on receipt of the cheque paid towards premium and the cheque gets dishonoured and before the accident of the vehicle occurs, such insurance company cancels the policy of insurance and sends intimation thereof to the owner, the insurance company's liability to indemnify the third parties which that policy covered ceases and the insurance company is not liable to satisfy awards of compensation in respect thereof.

27. Having regard to the above legal position, insofar as the facts of the present case are concerned, the owner of the bus obtained the policy of insurance from the insurer for the period 16-4-2004 to 15-4-2005 for which premium was paid through cheque on 14-4-2004. The accident occurred on 11-5-2004. It was only thereafter that the insurer cancelled the insurance policy by communication dated 13-5-2004 on the ground of dishonour of cheque which was received by the owner of the vehicle on 21-5-2004. The cancellation of policy having been done by the insurer after the accident, the insurer became liable to satisfy the award of compensation passed in favour of the claimants.

28. In view of the above, the judgment of the High Court impugned in the appeal does not call for any interference. The civil appeal is dismissed. However, the insurer shall be at liberty to prosecute its remedy to recover the amount paid to the claimants from the insured. No order as to costs."

6. Despite service, no one has put in appearance on behalf of the respondent No.2, who is owner and driver of the offending vehicle.

7. Admittedly, in the present case, the policy holder-respondent No.2 got the insurance policy of the offending vehicle after giving cheque of the premium amount to the insurance company, however, the cheque was subsequently dishonoured, moreover, the insurance company has failed to prove the fact whether before the date of the accident, it issued the notice or not to the policy holder-respondent No.2 in order to cancel the said policy for want of payment of premium amount. Therefore, this Court while relying upon the judgment passed by the Hon'ble Apex Court in case of **Laxmamma & Ors.** (supra), deems it fit to dismiss the appeal filed on behalf of the appellant-Insurance Company, and thereby, the appellant-Insurance Company is liable to satisfy the award amount, however, it can recover the said amount so paid to the claimants-respondents from the insured/owner of the offending vehicle.

8. With the above observations, the appeal stands disposed of.

9. Stay application and pending applications, if any, also stand disposed of.

(ASHUTOSH KUMAR),J

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