

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 1380 OF 2010**

**NATIONAL INSURANCE CO. LTD.**

...APPELLANT(S)

VERSUS

**SMT. SHIVADEVI JADON & ORS.**

...RESPONDENT(S)

**ORDER**

This appeal by special leave is directed against the judgment and order dated 27.01.2006, passed by the High Court of Madhya Pradesh, Bench at Gwalior, in MA Nos. 696 of 2000 and 697 of 2000, whereby the High Court has partly allowed the appeals of Respondent Nos. 1 & 2 herein and fastened liability on the appellant—Insurance Company.

**2.** A brief reference to the material facts of the case might be necessary for the disposal of the case at hand. Shri Shiv Kumar Sharma, Respondent Nos. 3, being the owner of a bus bearing Registration Number MP 07 9750, took an insurance policy (bearing Cover Note No. 72541, dated 03.08.1992) for his vehicle from the Appellant (insurance company). Respondent No. 3 sought to pay the premium of Rs. 12,020/- through Cheque No. 5508050, dated 03.08.1992. The policy was intended to be valid for the

period from 03.08.1992 to 02.08.1993. On 14.08.1992, the cheque was duly presented to the banker for realization but the same was dishonored on 14.08.1992 and consequently it was returned to the appellant with remarks 'refer to the drawer'. It is alleged that the appellant- Insurance Company sent intimation of dishonor of the cheque and resultant cancellation of the cover note and policy by Registered post AD to the postal address as given by the Respondent No. 3 on the Cover Note No. 72541. However, the intimation letter was received back unserved with postal remarks "incomplete address".

**3.** On 04.01.1993, Raghupati, the cleaner of the bus, while unloading the luggage, fell from the roof of the bus as the driver suddenly started the bus and got fatally injured and later succumbed to the injuries. Further on 17.06.1993, the same bus was involved in another accident wherein a motorcyclist sustained fatal injuries and died. The legal heirs of both the deceased filed claim petitions being Case No. 78/99 and 79/99 before MACT, Morena, Madhya Pradesh claiming compensation.

**4.** The Claims Tribunal while awarding compensation in both cases, exonerated the appellant-Insurance Company. Both the awards were challenged by the respondents before the High Court of Madhya Pradesh at Gwalior Bench where the High Court while partly allowing the appeals, imputed joint and several liability on the Insurance Company. Aggrieved

thereby the Insurance Company is before us in appeal.

**5.** It is submitted by the learned counsel for the appellant that the Insurance Company is not liable to pay any compensation because of the cancellation of the cover note and the High Court has committed an error by fastening liability upon it. On the other hand, the learned counsel for the respondents contends that intimation of the cancellation of cover note was not communicated by the Insurance Company, and hence the High Court has rightly made the Insurance Company liable for making payment of compensation amount.

**6.** Having gone through the material on record, we find that the Insurance Company failed to intimate properly the factum of dishonor of the cheque and cancellation of the contract of insurance to the insured. It is necessary on the part of Insurance Company to convey to the insured about the dishonor of cheque and subsequent consequences so as to give the insured an opportunity to remit the premium amount by proper means. It cannot be said to be a valid service by just sending intimation of cancellation of the cover note by post which has come back unserved, without reaching the addressee. It is not the case of appellant that the insured has deliberately not accepted the intimation. In such situation, the Insurance Company cannot distance itself from the liability. We are, therefore, in complete agreement with

the view taken by the High Court that under the circumstances, the Insurance Company is liable jointly and severally.

7. The appeal is accordingly dismissed. No costs.

.....J.  
(N. V. Ramana)

.....J.  
(Dr. D. Y. Chandrachud)

**New Delhi,  
Date 06.09.2017**

ITEM NO.101

COURT NO.9

SECTION IV-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 1380/2010

NATIONAL INSURANCE CO. LTD.

Appellant(s)

VERSUS

SHIVADEVI JADON &amp; ORS.

Respondent(s)

Date : 06-09-2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA  
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Appellant(s)      Ms. Prerna Mehta, AOR  
                                 Mr. Rohit Singh, Adv.

Mr. Vishnu Mehra, Adv.  
Mr. Pramod Dayal, AOR

For Respondent(s)    Mr. Puneet Jain, Adv.  
                                 Mr. Abhinav Gupta, Adv.  
                                 Mr. Harsh Jain, Adv.  
                                 Ms. Pratibha Jain, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is dismissed in terms of the signed order.

Pending applications, if any, shall stand disposed of.

(SHASHI SAREEN)  
AR CUM PS

(S. SIVARAMAKRISHNA)  
ASST.REGISTRAR

(Signed order is placed on the file)