

(2000) 01 MP CK 0018

Madhya Pradesh High Court

Case No: Miscellaneous Appeal No. 1567/99

National Insurance Co. Ltd.

APPELLANT

Vs

Pawan Kumar and Others

RESPONDENT

Date of Decision: Jan. 14, 2000

Citation: (2000) 1 MPHT 557 : (2000) 2 MPLJ 129

Hon'ble Judges: P.N.S. Chauhan, Acting C.J.; A.K. Mishra, J

Bench: Division Bench

Advocate: N.S. Ruprah, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

The appeal is at the behest of the National Insurance Company Ltd., against the award dated 10-5-1999 passed by the 1st Addl. Motor Accidents Claims Tribunal, Rajnandgaon, in Claim Case No. 47/94. Learned counsel for the appellant submitted that the vehicle in question at the relevant point of time, was not insured and he invited our attention to paragraph 4 of the award wherein it is stated that the insurance premium of Rs. 7,032/- was paid by cheque on 30-9-1993 and the policy was issued, which was effective from 1-10-1993 to 30-9-1994. But, the said cheque, by which the premium amount was paid, was dishonoured from the Bank, and was returned on 12-10-1993. In paragraph 4 of the award, the date 1-10-1993 is wrongly mentioned and since the cheque was dishonoured, the policy did not remain in force. He stated that a communication was also made to the Police Holder on 12-10-1993 that the cheque has been dishonoured and policy is cancelled.

The Claims Tribunal considered the aspect of the matter on merit. The Insurance Company examined its officer, Sitaram Nagmore as witness, who stated before the Claims Tribunal that an intimation was given to the Policy Holder by a registered post. He also made a statement that the communication was made to the Policy Holder about dishonour of the cheque, which is clear from the letter (Ex. D-2), which

was on the file of the Insurance Company. The Claims Tribunal recorded the findings that it has not been established that the communication regarding dishonour of the cheque, was given to the Policy Holder.

For establishing the fact of intimation, which admittedly was sent by registered post, the Insurance Company should have filed the best evidence, i.e. the receipt of sending the postal letter by registered post and the acknowledgement due. Since the material for establishing the fact of sending of intimation to the Policy Holder is not on record, the finding of the learned Claims Tribunal cannot be said to have suffered from any error.

In view of above, we do not consider it a fit case for interference. The appeal is sans merit and is dismissed.