(1991) 04 SC CK 0005

In the Supreme Court Of India

Case No : Special Leave Petition No. 6043 of 1991

United India Insurance Company Ltd. APPELLANT

Vs

Ayeb Mohammed and Others RESPONDENT

Date of Decision : 01-04-1991

Acts Referred:

Citation : (1991) ACJ 650

Hon'ble Judges : Ranganath Misra, C.J;P.B. Sawant, J

Bench : Division Bench

Advocate : Arun Madan and Vishnu Mehra, for the Appellant;

Final Decision : Disposed Of

Judgement

Ranganath Misra, C.J. and P.B. Sawant, J.—Delay condoned.

2. This is an application for special leave against the decision of the Orissa High Court where the compensation given for a sum of Rs. 15,000/- (Rupees fifteen thousand) under the Motor Vehicles Act has been upheld by the High Court against the insurer on the footing that it had issued a cover note undertaking the risk in terms of the requirements of the Motor Vehicles Act. The insurer's stand was that the cheque covering the premium had bounced and in the absence of payment, the cover note had become ineffective and there was no policy which obliged the insurer to pay the compensation. Counsel relies upon the decision of the Delhi High Court in the case of Chandan v. Kanwarlal 1989 ACJ 816 (Del).

3. Undoubtedly, the decision of the Delhi High Court supports his stand.

4. In the impugned judgment the High Court has taken the view that in the absence of steps taken for cancelling the cover note, the insurer's liability continued, although the bouncing of the cheque and steps taken by the insurer cancelling the risk note have been found as a fact. In fact, the insurer had issued notice to the registering authority and parties that the cheque bounced and the liability ceases but the High Court has recorded a finding that the notice of

cancellation has not been served on the insured. The fact that the cheque had bounced was a matter within the knowledge of the insured. At any rate, there would be that presumption and, therefore, in ordinary circumstances no special notice would be required.

5. Since Mr. Madan had told us at the commencement of the hearing of the matter that the amount being small he was not interested in disputing the liability to pay in this case but the insurer would like to have the principle of law decided, we do not think it is necessary to issue notice to the Respondents.

6. In the setting indicated we are of the view that the High Court was not right in holding that in the absence of steps for cancellation of the cover note, the risk would be subsisting but as Mr. Madan has himself stated, we do not interfere with the decision of the High Court requiring the sum of Rs. 15,000/- to be paid by the insurer.

7. The SLP is accordingly disposed of.

Orders accordingly.

