

Case Comment: *United India Insurance Company Ltd v Laxamma and Ors*

18 April 2013

Under Indian law an Insurer must be in receipt of premium before he assumes a risk. There are some limited exceptions, but that is the general rule. In *United India Insurance Co Ltd v Laxamma* [AIR 2012 SC 2817], the Indian Supreme Court had to decide whether an Insurer is liable to pay a claim which arises under a policy that was cancelled because the premium paid was not in fact realised.

The Insured was travelling in a bus with his family. The Insured was standing near the bus door. The bus driver braked suddenly and hard, which caused the Insured to fall. He sustained severe injuries to which he succumbed. His family claimed compensation of Rs.1.5m (US\$28k) before the Motor Accident Claims Tribunal. United India insured the bus, but said that the policy was ineffective because the premium had been paid by cheque and the cheque was subsequently dishonoured.

The Motor Accident Claims Tribunal held for the claimants and awarded compensation of c.Rs.600k on the basis that United India did not cancel the policy until after it received notice of the accident. The Insurer appealed to the Karnataka High Court, who dismissed the appeal. The Insurer then appealed to the Indian Supreme Court.

The Supreme Court relied on its earlier decisions when faced with similar factual scenarios, and held that where a policy is issued on the receipt of a premium cheque, and the cheque is not honoured, an Insurer must indemnify unless the policy is cancelled and notice of the cancellation is given to the Insured before an accident occurs.

For further information on this topic please contact Tuli & Co

Tel +91 11 4593 4000, fax +91 11 4593 4001 or email lawyers@tuli.biz

www.tuli.biz