HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A. C.M.A. No.1702 OF 2009

JUDGMENT:

United India Insurance Company Limited - respondent No.2 in O.P. No.287 of 2004 is the appellant herein.

2. Assailing the order and decree, dated 04.03.2005, passed by the learned Chairman, Motor Accidents Claims Tribunal - cum - District Judge, Warangal, awarding a compensation of Rs.66,000/-, the insurer preferred the present appeal on the main ground that there has been delay of about one month in lodging F.I.R., but the Tribunal has not discussed about the delay and erroneously fastened liability on it.

3. The fact-situation is not in dispute.

4. Heard Sri Srinivas Rao Vutla, learned standing counsel for the insurer (appellant).

5. Despite service of notice on respondent No.1 - petitioner, and respondent No.2 - owner of the auto-rickshaw bearing No.AP-36-V-1529 that involved in the accident, none appears on their behalf.

6. Perused the material on record and the order and decree under challenge.

7. Learned Standing Counsel for the insurer (appellant) submits that the Tribunal ought to have examined the First Information Report, taken cognizance of the delay and ought to have dismissed the claim petition itself, but, he fairly admits that the insurer has not let in any evidence.

8. In such an event, when a finding was recorded by the Tribunal, based on facts, unless the insurer would show that the said finding suffers from utter perversity, certainly, the entire delay in lodging First Information Report cannot be viewed with suspicion so as to set aside the award and decree under challenge.

9. The learned standing counsel would submit that he is not disputing quantum of compensation awarded by the Tribunal. In fact, for three grievous injuries, the Tribunal has granted a lump sum of Rs.45,000/- at Rs.15,000/- for each injury, besides granting Rs.7,217/- towards medical expenses, Rs.3,600/- towards actual loss of earnings, a meager sum, and Rs.10,000/- towards pain and suffering. Therefore, on quantum of compensation also, the insurer cannot dispute that it is excessive.

10. Concerning rate of interest granted by the Tribunal at 9% per annum, the same requires reduction in view of the decision of the Hon'ble Apex Court in **Rajesh and others v. Rajbir Singh and others**[1], and therefore, the same is reduced to 7.5% per annum.

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[1] **2013ACJ1403 = 2013(4)ALT35**

11. Thus, the Civil Miscellaneous Appeal is allowed in part modifying the rate of interest alone as indicated above and confirming the order and decree under challenge in all other respects. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the appeal stand disposed of.

A. SHANKAR NARAYANA, J

August 17, 2016.
PV