

SMT JUSTICE T. RAJANI

M.A.C.M.A. No.3435 of 2011

JUDGMENT:

This appeal is preferred by the appellant—National Insurance Company Limited, who is respondent No.2 before the Court below, assailing the judgment of the Motor Accidents Claims Tribunal (District Judge) at Nizamabad in O.P. No.678 of 2007 dated 10.12.2008, on the ground that the Court below failed to see that even as per FIR, which is recorded at the earliest point of time, the vehicle number was not mentioned and the lower Court ought to have seen that PW.2 did not state anything about the involvement of vehicle.

- 2) Heard both the learned counsel.
- 3) Learned Standing Counsel for the appellant contends that PW.2, in his cross examination, stated that he did not mention the number of the vehicle in the FIR and the vehicle number is not known to him and the complaint is registered as against an unknown vehicle and doubt was expressed whether the accident has occurred when the deceased himself fell down from a two-wheeler or when he was hit by another vehicle.
- 4) As rightly observed by the Court below, the charge sheet, which is filed after thorough investigation, mentioned the vehicle number. PW.2 examined before the Court below is listed as an eye

witness to the accident. Hence, it is to be understood that considering the statement of eye witness, the police came to a conclusion that the vehicle involved is the lorry which is mentioned in the petition. The inability of PW.2 to give vehicle number while deposing in this case may be due to lapse of time and therefore, it cannot be inferred that he did not mention the vehicle number to the police, when his statement was recorded.

5) Hence, this appeal filed on that ground fails.

6) In the result, the appeal is dismissed.

7) Learned Standing counsel for the appellant submits that the Court below granted the rate of interest at 9%per annum, which is exorbitant. This Court is unable to interfere with the judgment of the Court below in that regard. Usually the Courts award interest on the basis of prevailing bank rates of interest at the time of deciding the case. There is no evidence let in by the appellant to say that it was not the rate prevailing at that time. Hence, the said contention cannot be accepted. No order as to costs.

As a sequel, the miscellaneous applications, if any, shall stand closed.

T. RAJANI, J

Date:29.11.2017
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