IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 29.09.2017

FAO No.6529 of 2017 (O&M)

IFFCO Tokia General Insurance Company Limited ...Appellant

Vs.

Sunil & another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Yogesh Gupta, Advocate, for the appellant.

RAJIV NARAIN RAINA, J. (ORAL)

1. This is Insurance Company's appeal against the award of the Motor Accident Claims Tribunal, Panipat dated 15.03.2017 awarding a sum of ₹2,14,908/- for the injuries sustained by the claimant, namely, Sunil in a motor accident involving two motor-cycles. The rate of interest awarded is 7.5% per annum on the principal sum from the date of filing of petition till its realization with counsel fee assessed at ₹1000/-.

2. The Tribunal has found that the offending vehicle bearing registration No.HR-06W-8470 was insured with respondent No.2/appellant and the driver of the offending motor-cycle, which hit the motor-cycle of the claimant/injured while in stationery mode, was covered by insurance policy (Ex.R3) and further that the driver – Hitesh of the offending two wheeler held a valid driving license (Ex.RW1/A). The injured was his own witness and he does not seem to have spoken the untruth in his deposition. The accident was sudden and violent since it resulted in the claimant losing his balance and falling down to multiple injuries, which led to hospitalization

from 17.08.2015 to 25.08.2015 in Prem Hospital, Panipat. A criminal case bearing FIR No.191 dated 30.08.2015 was also registered in this regard under Sections 279 and 337 of the IPC at P.S.Israna against the offending driver.

3. Before this Court, learned counsel for the appellant – Insurance Company has laid stress on the fact that there was unexplained delay in lodging of FIR.

4. A perusal of the award on the other hand reveals that it was explained by the injured that during the interregnum compromise talks were going on between the parties. This is not an unusual and happens in many cases where delay occurs in lodging of FIR in the circumstances of accidents resulting in injuries both minor and major. As per medico legal report (Ex.P41), the driver of the offending motor-cycle had also received injuries in the same accident on 17.08.2015 at about 5.00 PM and required treatment. There could be no better evidence to contend with. On quantum I find no justification to reduce.

5. Thus, I have no reason to interfere with the findings recorded by the Tribunal in this appeal on rash negligent riding and would dismiss the same not only on merits, but also by reason of insufficient cause for the delay of 75 days in filing the instant appeal of which 30 days were consumed for the alleged mistake of the Clerk to counsel for not attaching the certified copy of the award to stop period of limitation running. However, the justification given in the application regarding delay of 45 days to support plea for condoning the delay has not been properly explained on sufficient cause which prevented the filing of the appeal within limitation. A private insurance company is supposed to work faster than a

public sector company in making decisions and can take no benefit, just like other litigants hiding behind routine administrative procedures in making up mind to file appeal with papers pushed to different quarters by the authorities till it highest decision-making levels. The criterion in Section 5 of the Limitation Act, 1963 is not satisfied to accept the application mechanically and for the asking.

6. Consequently, the instant appeal is dismissed on both counts when it is not admission worthy.

29.09.2017 **[RAJIV NARAIN RAINA]**
Vimal **JUDGE**

Whether speaking/reasoned: *Yes*
Whether Reportable: *No*