

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD**  
**B. SIVA SANKARA RAO, J.**  
**C.M.A.No. 2318 of 2004**  
**DECIDED ON : 31-08-2016**

**HEAD**

**NOTE**

**Motor Vehicles Act, 1988, Section 166 — Compensation — When the policy covers the risk to workmen besides driver and also non-fair paying passenger and the injured claimed as non-fair paying passenger, policy covers the risk — Once policy covers the risk, question of holding non-liability does not arise. (Para 3)**

**ADVOCATES**

Dr. **MUDDU VIJAY**, Counsel for the Appellant. Mr. Gade Venkateswara Rao, Counsel for Respondent No.2.

**JUDGMENT**

The 2nd respondent insurer among the 2 respondents of O.P.No.1288 of 1999 maintained by the claimant under Section 166 of Motor Vehicles Act for the injuries sustained in the motor accident on 21.12.1998 while travelling in the lorry of the 1st respondent bearing No.AP-16-T-3244, since the Tribunal awarded joint liability with interest @ 9% instead of 7.5% per annum, maintained the appeal impugning the same on the contention that the Tribunal gravely erred in fixing liability, the injured is an unauthorized passenger of the goods vehicle and the other contention is rate of interest is excessive to reduce and the compensation is also excessive.

2. Whereas, it is the contention of the learned counsel for the claimant that the award of the Tribunal holds good for this Court while sitting in the appeal there is nothing to interfere, but for no cross objections to enhance, hence to dismiss the appeal.

3. Heard and perused the material on record.

4. A perusal of the policy clearly speaks besides the Act Policy there is a legal liability for non fair paying passenger, non employee Rs. 50/- collected for paid travellers and Rs. 106/- collected under old IMT principles 1 and 7 respectively and TPPO coverage mentioned as unlimited from the additional premium collected. Thus when it covers the risk to workmen besides driver and also non fair paying passenger and the injured claimed as non fair paying passenger, policy covers the risk. Once policy covers the risk, question of holding non liability does not arise, thereby but for to reduce the rate of interest 9 to 7.5 p.a. there is nothing to interfere.

5. Accordingly and in the result, the appeal is allowed in part by confirming the award of the Tribunal, however by reducing the rate of interest from 9% to 7.5% per annum.

6. Consequently, miscellaneous petitions, if any shall stand closed. No costs.