

**HONOURABLE SRI JUSTICE L. NARASIMHA REDDY**

**CIVIL MISCELLANEOUS APPEAL No.4038 OF 2003**

**ORDER:**

The appellant filed MVOP No.526 of 1996 before the Motor Accidents Claims Tribunal – cum – II Additional District Judge, Kadapa at Proddutur, claiming compensation for the injuries said to have been suffered by him in an accident involving a motor vehicle. The Tribunal dismissed the O.P. for default on 22-06-2000.

2. Appellant filed I.A. No.692 of 2000 under Order – IX Rule – 9 CPC. It was pleaded that he has suffered ill health and on account of that he could not appear on 22-06-2000. The Tribunal dismissed the I.A through order dated 17-07-2010. Hence, this CMA.

3. Heard the learned counsel for the appellant and the learned counsel for the 2<sup>nd</sup> respondent. The 1<sup>st</sup> respondent remained *ex parte* before the Tribunal also.

4. The O.P. was filed way back in the year 1996 and it was identified for disposal in the year 2000. The Tribunal observed that adjournments were granted liberally on account of unrest in the Bar for quite some time and still the appellant did not evince any interest. Reliance is made to imposition of costs and failure on the part of the appellant to pay the same. Ultimately, the O.P. was dismissed for default.

5. In his application, the petitioner stated that he has fallen ill and thereby could not attend the Court. Though he did not enclose the medical certificate, the fact that he sustained serious injuries in the accident needs to be taken into account. Interest of the 2<sup>nd</sup> respondent can be protected by directing that the amount, if any, awarded shall not carry interest from the date of dismissal of the O.P. for default till the

date of this order.

6. Hence, the Civil Miscellaneous Appeal is allowed and the order under appeal is set aside. Consequently, I.A. No.692 of 2000 is allowed and thereby O.P. No.526 of 1996 is restored to file subject to condition that in the event of any compensation being awarded to the appellant, it shall not carry interest from 22-06-2000 till the date of this order. The O.P. shall be disposed of within two (2) months from the date of receipt of a copy of this order and the petitioner shall produce evidence forthwith. There shall be no order as to costs.

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**L. NARASIMHA REDDY, J**

**August 30, 2010.**

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