

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

MACMA MP No.3844 of 2011

in/and

M.A.C.M.A. No.2715 of 2015

ORDER :

The appellant/A.P.S.R.T.C. in filing the un-numbered appeal with 80 days delay covered by the petition, was the 4th respondent to the claim petition filed by the sole claimant injured under Section 166 of the Motor Vehicles Act for Rs.2 lakhs and the tribunal by showing four respondents including driver and owner of bus bearing No.AP 37 V 749 hired with 4th respondent/APSRTC of the claim petition and insured with the 3rd respondent/insurer of the claim petition i.e., United Insurance Company Limited.

2. The driver and owner of the hired bus remained exparte before the tribunal as per the award dated 25.03.2010 in O.P.No.358 of 2006 on the file of Motor Accidents Claims Tribunal (Family Court-cum-Additional District Judge's Court), West Godavari, Eluru, partly allowed by awarding compensation of Rs.1,01,000/- with interest at 7.5% p.a.. from the date of petition till realization only against driver, owner and APSRTC hired bus and exonerated the insurer of the hired bus. It is impugning the same, the present appeal is maintained by the A.P.S.R.T.C. mainly attacking the exoneration of the insurer it is in filing the same 80 days delay caused.

3. The owner of the bus/3rd respondent to the appeal vis-à-vis, the application even impleaded and dismissed for default for not taking fresh notice from earlier not served on 12.03.2015, that no way fatal as remained exparte before the

tribunal along with driver vide respondents 1 and 2 before the tribunal, vide **Meka Chakra Rao vs Yelubandi Babu Rao @ Reddemma**^[1] and the same is recorded.

4. The delay of 80 days explained is the administrative delay in forwarding the legal opinion and obtaining sanction in filing the appeal and the same is condoned, by directing the Registry to number the appeal, if otherwise in order.

5. It is at the request of both the parties, while allowing the delay condonation application and directing the Registry to number the appeal if other wise in order, taken up the appeal for final hearing.

6. Heard and perused the material on record.

7. Once even it is hired with RTC, the law is settled as per the Apex Court in **Uttar Pradesh State Road Transport Corporation V. Kulsum**^[2] reiterated by the full bench expression of this Court in **APSRTC, Hyderabad V. B.Kanakaratnabai**^[3] and also as observed by this Court in MACMA No.3668 of 2011 dated 31.12.2013 and referring to subsequent three judges Bench of the Apex Court in **Purnya Kala Devi vs. State of Assam**^[4], decided also by another Bench of this Court in MACMA No.2953 of 2009 on 22.04.2014 in **K.Jayasree v. K.Shankar Reddy**, there is no provision for the insurer to be exonerated from liability even for any non-intimation of the hiring of the bus by the owner to the insurer for not a transfer within the purview of Section 157 of the Motor Vehicles Act.

8. If the APSRTC deposited any amount entitled to take back and paid any amount entitled to the reimbursement from the insurer.

9. In the result, the appeal is allowed and the insurer is directed to deposit the entire compensation amount as awarded by the Tribunal within two months, failing which the claimant can execute for recovery. There is no order as to costs.

10. Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

20.11.2015

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[\[1\]](#) 2001 (1) ALT 495

[\[2\]](#) (2011)8 SCC 142

[\[3\]](#) 2013(1)ALD 644 (FB)

[\[4\]](#) (2014 (1) Decisions Today (SC) 122