

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO
MACMA MP No.4074 of 2011 in MACMA No.2628 of 2015 &
MACMA No.2628 of 2015

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COMMON JUDGMENT :

Delay in filing the appeal is condoned.

2) The un-numbered appeal is dismissed against respondent No.1/claimant for default on 09.03.2015 and the 2nd respondent to the appeal, owner remained exparte even before the Tribunal, thereby not necessary party vide **Meka Chakra Rao v. Yelubandi Baburao**^[1] so far as claimant concerned. It is the submission of the appellant/A.P.S.R.T.C that the appeal is mainly between R.T.C and the insurance company for exoneration of the owner and insurer and not disputing the amount due to the claim, thereby the claimant is not necessary party, same is recorded.

3) Heard both sides and perused the material on record. At request of both parties the appeal is taken up for hearing.

4) The claim petition was filed by the injured/claimant against the owner, insurer of the bus and the A.P.S.R.T.C with whom the bus bearing No.AP 24 U 4950 is hired by the owner, for Rs.6,00,000/- and the Tribunal after contesting, by award dated 20.12.2010 granted compensation of Rs.3,21,000/- with interest at 7.5% p.a. The present appeal is filed by the A.P.S.R.T.C as the Tribunal exonerated the insurer from liability and fixing the liability only against R.T.C.

5) Coming to the exoneration of the insurer and the

owner from liability in fixing, law is fairly settled from the expression of the Apex Court in ***Uttar Pradesh State Road Transport Corporation V. Kulsum***^[2], ***APSRTC, Hyderabad V. B.kanakaratnabai***^[3].

6) In the result, the appeal is partly allowed fixing the liability of owner and insurer and if any amount paid so far by the A.P.S.R.T.C shall be reimbursed from the insurance company. In all other respects, the award of the Tribunal holds good. There shall be no order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Date: 23-11-2015

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^[1] 2001(1)ALT 495 DB

^[2] (2011)8 SCC 142

^[3] 2013(1)ALD 644 (FB)