

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.2900 OF 2015

JUDGMENT:

The 3rd respondent-APSRTC represented by its Managing Director, Musheerabad, Hyderabad, Insurer among the three respondents including Insurer and owner of the crime bus bearing No.AP04-J-6216 of the M.V.O.P.No.172 of 2009 on the file of the Chairman, Motor Accidents Claims Tribunal–cum-III Additional District Judge (Fast Track Court), kadapa at Rajampet (for short, ‘the Tribunal’) maintained the claim under Section 166 of the Motor Vehicle Act,1988 (*for short, ‘the Act’*), by the claimant-Injured for the claim of Rs.2,00,000/-(Rupees two lakhs rupees only) for the injuries sustained by him in the accident dated 16.01.2007, aggrieved by the award dated 14.03.2011 passed by the tribunal granting compensation of Rs.66,000/- with interest at 6% p.a. by fixing liability against the 3rd respondent-appellant herein, preferred this appeal with the contentions in the grounds of appeal that the liability of the Corporation does not arise in view of Clause 5(iv) of the Hire Agreement, the Corporation is reimbursing the premium paid by the owner to the Insurance Company and the Corporation is not liable, that the Apex Court decided in UPSRTC Vs. Kulsum^[1] that in accident cases of hire buses where Insurance premium is paid, the Insurance Company only is liable to pay compensation and hence sought to set aside the award passed by the tribunal.

2. The unnumbered appeal is filed along with a petition vide MACMAMP No.1377 of 2012 to condone the delay of 203 days in preferring the above appeal and the reasons explained in the affidavit is the administrative delay in obtaining permission with opinion and any sanction of amount in cause filing, the delay occurred. Thus the delay is condoned and the registry is directed to number the unnumbered appeal if it is otherwise in order and the appeal is taken

up for hearing.

3. Heard the learned counsel for the appellant-APSRTC and also learned counsel for the 1st respondent-claimant and the counsel for the 3rd respondent-Insurer. The 2nd respondent-owner of the crime bus hired with the APSRTC who remained exparte before the tribunal and even impleaded in the appeal and the appeal dismissed for default against him it is no way fatal as per **M.Chakra Rao v. Y.Baburao**^[2]. Perused the material on record.

4. The law is fairly settled from the expression of the Apex Court in Kulsum surpa which is reiterated in the APSRTC Vs. B.Kanakaratna Bai^[3] more particularly with reference to Section 157 of M.V.Act also saying the same is not applicable for hire but for transfer of ownership and there is no any provision prohibiting hire and the non-intimation even taken for arguments of hiring of the vehicle to inform thereby the Insurance Company of the bus that is even under hire with the APSRTC cannot be exonerated from liability. Thus the Insurer is also liable along with the owner and the APSRTC of the vehicle to indemnify the third party. Having regard to the above, the exoneration by the tribunal of the Insurance Company and owner is unsustainable.

5. In the result, the appeal is allowed by fixing liability jointly on the Insurer and owner of the bus also, along with 3rd respondent-APSRTC-appellant herein to pay compensation whatever amount if paid by APSRTC can claim back from Insurer. In other respects, the award of the tribunal holds good. There is no order as to costs. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 21.12.2015

Vvr

[\[1\]](#) (2011) 8 SCC 142.

[\[2\]](#) 2001 (1) ALT 495 DB

[\[3\]](#) LAWS(APH)-2012-11-66