

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.621 of 2016

JUDGMENT:

The respondents 3 and 4-APSRTC (for short, 'the Corporation') among the 4 respondents including the owner and insurer of the hired bus bearing No.AP 11 V 4899, in the claim maintained by the injured for the accident in which his left index and ring fingers were amputated, in O.P.No.490 of 2006 for the claim under Section 166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*), on the file of the Chairman, Motor Accidents Claims Tribunal–cum-XXII Addl. Chief Judge, Hyderabad (for short, 'the Tribunal'), for claim for Rs.2,00,000/- (Rupees two lakhs only), but the tribunal by its award dated 15.12.2009 granted of Rs.70,000/-(Rupees seventy thousand only) with interest at 7%p.a. fixing liability against 1st respondent (Owner of the crime bus) 3rd and 4th respondents (appellants herein) of the claim petition holding that the accident was result of rash and negligent driving of the driver of the crime bus.

2. It is impugning the same, the present appeal is filed by the Corporation with a petition vide MACMAMP No. 20 of 2012 seeking to condone the delay of 576 days in filing the appeal and the same is condoned.

3. The contentions in the grounds of appeal are that the tribunal failed to see that the appellants are only hiree and not the owner of the bus and as such not at all liable to pay compensation and the 1st respondent(owner) and 2nd respondent(Insurer) of claim petition alone are liable, that as per the terms of the hire agreement, the 1st respondent-owner of the crime bus should insure the vehicle, that the driver of the bus is engaged by the 1st respondent but not the employee of the Corporation and there was no negligence on the part of the driver of the bus, hence to exonerate the Corporation from liability.

4. Heard the learned counsel for the appellants and the Insurer-3rd respondent of the appeal and the 1st respondent(claimant) and 2nd respondents(owner of the crime bus) even impleaded dismissed for default no way fatal to the maintainability of the appeal as per **M.Chakra Rao v. Y.Baburao** ^[1] and perused the material on record.

5. The law is fairly settled from the expression of the UPSRTC Vs. Kulsum ^[2] which is reiterated in the APSRTC Vs. B.Kanakaratna Bai ^[3] more particularly with reference to Section 157 of M.V.Act also, held that the Insurer is also liable along with the owner and the Corporation to indemnify the third party. Having regard to the above, the exoneration by the tribunal of the Insurance Company is unsustainable.

6. In the result, the appeal is allowed in part by fixing joint liability on all the respondents of the claim petition(includes appellants herein). Needless to say any amount, paid or deposited by the appellants, can be withdrawn by filing cheque petitions and permitted to recover from the injured as injured is indemnified by virtue of the policy. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 12.02.2016
Vvr

^[1] 2001 (1) ALT 495 DB

^[2] (2011) 8 SCC 142.

^[3] LAWS(APH)-2012-11-66