

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.4342 of 2008

JUDGMENT :

Heard both sides and perused the material on record.

The 2nd respondent, 1st respondent in the claim petition, remained exparte before the Tribunal and it is the representation that no notice is necessary even impleaded in this appeal vide **Meka Chakra Rao V. Y.Babu Rao**^[1] and the same is recorded. At request of both parties, the main appeal heard of its disposal.

2) The present appeal is filed by the 2nd respondent/insurer of the bus, which hired with A.P.S.R.T.C contending the Tribunal ought to have exonerated the insurer from liability and fixing the liability only against R.T.C.

3) 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 **Managing Director, K.S.R.T.C V. New India Assurance Co. Ltd**^[2] referring to **Uttar Pradesh State Road Transport Corporation V. Kulsum**^[3], **APSRTC, Hyderabad V. B.kanakaratnabai**^[4] showing the joint liability.

4) In the result, the appeal is partly allowed fixing the liability of owner and insurer also and if any amount paid or deposited so far by the A.P.S.R.T.C and not permitted to withdraw, entitled to take back by filing cheque petition and if

permitted to withdraw as per the agreement, between Road Transport Corporation and the owner of the bus, entitled to 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.

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

Dr. B. SIVA SANKARA RAO, J

31.08.2016

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

[\[2\]](#) 2015 ACJ 2862

[\[3\]](#) (2011)8 SCC 142

[\[4\]](#) 2013(1)ALD 644 (FB)