

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.4540 of 2008

JUDGMENT:

Heard both sides and perused the material on record. The 4th respondent herein who is the 1st respondent to 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 Rao¹ and the same is recorded. At request of both parties, the main appeal is taken up for hearing and disposal.

The parties for the sake of convenience being referred to as arrayed before the Tribunal.

2) The present appeal is filed by the claim petition 2nd respondent/ insurer of the bus, which belongs to claim petition 1st respondent, hired with claim petition 3rd respondent- A.P.S.R.T.C. The appellant is contending that the Tribunal ought to have exonerated the insurer from liability and fixing the liability only against R.T.C. and the owner of the vehicle if any and not against the insurer of the vehicle.

3) Coming to the exoneration if any 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.*

¹ 2001(1) ALT 495 (DB)

*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 of the insurer, the RTC and the owner.

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

09.09.2016

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² 2015 ACJ 2862

³ (2011)8 SCC 142

⁴ 2013(1)ALD 644 (FB)