

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.4614 of 2008

JUDGMENT:

The 3rd respondent insurer among the 4 respondents including the 1st respondent, owner of the vehicle and 2nd respondent APSRTC with whom the vehicle was in hire as on the date of accident on 20.09.2004 for which death of deceased boy by name K.Althaf, aged about 7 years, maintained the claim by the mother and elder brother of the deceased under Sections 166 of Motor Vehicles Act for Rs.1,50,000/- in O.P.No.61 of 2007. That was on contest allowed by the Tribunal vide dated 22.07.2008 fixed joint liability against respondent Nos.1 to 3 and 4th respondent to the claim petition is no other than father of deceased and shown deserted the deceased and her mother, 1st claimant and brother of deceased, 2nd claimant as proforma party and awarded compensation of Rs.75,000/- with interest @ 7.5% per annum by apportioning the same.

The contentions in the grounds of appeal mainly are that the compensation awarded is exorbitant, the Tribunal gravely erred in fixing joint liability on the insurer though the bus under hire with APSRTC who is owner within the meaning of Section 2(30) of the Act and the insurer cannot be made liable for violation of the statutory provisions and not insured by APSRTC after lease, thereby the appeal to be allowed by exonerating the insurer. The learned counsel for the appellant reiterated the same.

Whereas it is the submission of the learned counsel for the claimant that award of the Tribunal holds good and but for no

cross objections to enhance for this Court while sitting in the appeal there is nothing to interfere, hence to dismiss the appeal.

Heard and perused the material on record.

The 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***¹ referring to ***Uttar Pradesh State Road Transport Corporation V. Kulsum***², ***APSRTC, Hyderabad V. B.kanakaratnabai***³ showing the joint liability of the insurer, the RTC and the owner.

In the result, the appeal is dismissed by confirming the joint 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 other respects, the award of the Tribunal holds good.

Consequently, miscellaneous petitions, if any shall stand dismissed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 08.09.2016
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¹ 2015 ACJ 2862

² (2011)8 SCC 142

³ 2013(1)ALD 644 (FB)