

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

**MACMA MP No.136 of 2011 in MACMA No.312 of 2016 &
MACMA No.312 of 2016**

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COMMON JUDGMENT :

Delay in filing the appeal is condoned. The only point involved is whether the exoneration of the insurer from liability by the Tribunal is unsustainable or not.

2) Heard both sides and perused the material on record. At request of both parties the appeal is taken up for hearing.

3) The present appeal is filed by the A.P.S.R.T.C as the Tribunal exonerated the insurer from liability and fixing the liability only against R.T.C.

5) 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***^[1] referring to ***Uttar Pradesh State Road Transport Corporation V. Kulsum***^[2], ***APSRTC, Hyderabad V. B.kanakaratnabal***^[3] showing the joint liability.

6) 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, 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.

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

Dr. B. SIVA SANKARA RAO, J

27th January, 2016

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[\[1\]](#) 2015 ACJ 2862
[\[2\]](#) (2011)8 SCC 142
[\[3\]](#) 2013(1)ALD 644 (FB)