

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA MP No.2530 of 2011 in MACMA No.329 of 2016 &

MACMA No.329 of 2016

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COMMON JUDGMENT :

Delay in filing the appeal is condoned.

2) The un-numbered appeal is dismissed against respondent No.2/owner for default on 09.03.2015, thereby not necessary party vide **Meka Chakra Rao v. Yelubandi Baburao** so far as 2nd respondent/owner of the bus concerned. It is the submission of the appellant/A.P.S.R.T.C that the appeal is mainly between R.T.C and the insurance company for exoneration of the owner and insurer and not disputing the amount due to the claim, thereby the claimant is not necessary party, same is recorded.

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

4) The claim petition was filed by the injured/claimant against the owner, insurer of the bus and the A.P.S.R.T.C with whom the bus bearing No.TN 31 R 4304 is hired by the owner, for Rs.5,00,000/- and the Tribunal after contesting, by award dated 02.06.2010 granted compensation of Rs.1,77,700/- with interest at 7.5% p.a. 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** referring to **Uttar Pradesh State Road Transport Corporation V. Kulsum, APSRTC, Hyderabad V. B.kanakaratnabai**.

6) In the result, the appeal is partly allowed fixing the liability of owner and insurer and if any amount paid so far by the A.P.S.R.T.C

shall 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

Date: 25-01-2016

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