

THE HON'BLE SMT JUSTICE T.RAJANI

M.A.C.M.A.No.465 of 2006

JUDGMENT:

This appeal is filed by the appellant, who is 4th respondent-APSRTC in the Court below, assailing the Judgment of the Principal District Judge, Rajahmundry in O.P.No.851 of 2001, on the grounds that the Tribunal ought to have held that the owner and insurer of the vehicle, on which the petitioner was going at the time of accident, are necessary and proper parties; that the Court below failed to see that when the accident has occurred while the bus was in the custody of the Corporation, the Insurance Company cannot avoid liability on the ground that the vehicle has been transferred to the Corporation; that the Corporation can be said to be the owner as defined under Section 2 (30) of the Motor Vehicles Act; and that the Tribunal failed to see that the vehicle was insured with the 4th respondent-insurance company and indirectly the Corporation is paying the premium amount and the same was reimbursed from the owner of the vehicle as per Clause-6 (iii) under Ex.B.2-hire agreement.

2. Heard learned counsel for the appellant and learned counsel for respondents 1, 3 and 4.

3. The only point involved in this appeal is whether the appellant Corporation can be mulcted with any liability.

4. There was no quarrel between the counsel with regard to the ratio laid down by the Apex Court in the case reported in **Managing Director, Karnataka State Road Transport Corporation v. New India Assurance Company Limited and Another**¹. The Apex Court by following its

¹ (2016) 2 Supreme Court Cases 382

Judgment in **HDFC Bank Ltd v. Reshma**², held that the insurer cannot escape from the liability when ownership changes due to hypothecation of agreement. Even in case of hire agreement also, the insurer cannot escape from the liability, if ownership changes. It was further observed that even though KSRTC is treated as owner under Section 2 (30) of the Motor Vehicles Act, the registered owner continues to remain liable as per the terms and conditions of the lease agreement lawfully entered into with KSRTC, and ultimately it was held that the registered owner, the insurer as well as KSRTC would be liable to make the payment of the compensation jointly and severally to the claimants and KSRTC in terms of the lease agreement entered into with the registered owner would be entitled to recover the amount paid to the claimants from the owner as stipulated in the agreement or from the insurer.

5. In this case also the crime vehicle is a bus, which was hired to the appellant. Since, the above Ruling is on all fours, it can be applied to this case straightaway.

6. In the result, the appeal is partly allowed by holding that all the respondents are jointly and severally liable to pay the compensation amount, but the appellant is entitled to recover the amount, if any, paid to the claimants from the owner as stipulated in the agreement or from the insurer.

Miscellaneous petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

JUSTICE T.RAJANI

AUGUST 18, 2017
YVL

² (2015) 3 SCC 679

THE HON'BLE SMT JUSTICE T.RAJANI



M.A.C.M.A.No.465 of 2006

Date:18.08.2017

YVL