



**IN THE HIGH COURT OF ANDHRA
PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3365]

WEDNESDAY ,THE NINETEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE JUSTICE DR V R K KRUPA SAGAR

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO:
3001/2012**

Between:

Andhra Pradesh State Road Transport & 2 **...APPELLANT(S)**
Others and Others

AND

Alaboni Ramanamma 3 Others and Others **...RESPONDENT(S)**

Counsel for the Appellant(S):

1.VINOD KUMAR TARLADA (SC FOR APSRTC)

Counsel for the Respondent(S):

1.JAYANTI S C SEKHAR

2.V DURGA

The Court made the following:

THE HON'BLE JUSTICE Dr. V.R.K.KRUPA SAGAR
MACMA No. 3001 of 2012

JUDGMENT:

1. This appeal under section 173 of the Motor Vehicles Act, 1988 is filed by the APSRTC impugning the order dated 25.02.2010 of the learned Chairman, Motor Accidents Claims Tribunal – Cum –Additional District And Sessions Court, Vizianagaram in MVOP.No.90 of 2007.

2. The following facts are required to be noticed:

Smt.A.Ramanamma aged 35 years has been eking out her livelihood by doing coolie work. On 25.11.2005, she was on foot on the left side of the road near Muddadapeta Junction. At that time, APSRTC bus bearing registration No. AP 35 T 8399 was driven by its driver rashly or negligently and it came at high speed and dashed her causing fracture on left femur of left thigh. She also sustained several injuries. In terms of Section 166 of Motor Vehicles Act, she made a claim for compensation of Rs.2,00,000/- before learned Chairman, Motor Accidents Claims Tribunal – Cum – Additional District Judge, Vizianagaram in MVOP.No.90 of 2007. At the material point of time, Sri Ch.Jagannadham was at the steering wheel of the offending bus.

The bus was originally owned by Smt.K.Suseela and got it insured with United India Insurance Company Limited. At the material point of time, the insurance policy was in force. In terms of Ex.B2 agreement, the owner of the bus gave it on hire to APSRTC. As against all of them, the compensation claim was preferred before the claims tribunal. The driver and original owner did not choose to contest. The insurance company/ R3 before the claims tribunal filed a counter disowning any liability on the premise that the bus being hired to APSRTC and the passengers having been paying fares to APSRTC, the liability, if any, should be shouldered by APSRTC but not by the insurance company. APSRTC filed its counter traversing narration of the incident made in the claim petition and disputing the narration made therein. It contends that the bus being insured by the insurance company, the liability, if any, should be shouldered by the insurance company. On the rival pleadings, the claims tribunal settled the following issues for trial.

1. Whether the accident occurred due to rash and negligent driving of R.1?

2. Whether the petitioner is entitled for compensation and if so, at what quantum of amount the petitioner is entitled?

3. To what relief?

3. The claimant testified as PW.1 and the doctor who conducted two surgeries on her testified as PW.2. Exs.A1 to A7 and Exs.X1 to X3 were marked. An officer of the APSRTC testified as RW.1. Ex.B1 insurance policy and Ex.B2 copy of agreement of hire were marked.

4. After analysis of the entire evidence on record and after considering the rival submissions made on both sides, the claims tribunal observed that as per the evidence of injured claimant/ PW.1 as well as investigative outcome of the police concerning this accident registered Cr.No.349 of 2005 evidenced by Ex.A3/ charge sheet, the accident was out of rash or negligent driving of the driver of the APSRTC bus. It observed that the injured had undergone surgeries on two occasions and she being a coolie had expended lot of money towards her medical expenses and she suffered partial permanent disability of 35%. Accordingly, it granted compensation as mentioned below.

		Amount in Rs.
1	Towards loss of earnings because of disability	1,00,800
2.	Towards transport and extra nourishment	4,000
3.	Towards medical expenses	15,706
4.	Towards pain and suffering	5,000

Thus, total compensation of Rs.1,25,506/- was granted.

5. It considered the rival submissions of insurance company and APSRTC. It finally held that APSRTC alone was liable to pay compensation. It positively recorded an observation that the insurance company was not liable. Taking such view, it dismissed the claim as against the owner of the bus. It passed the award in the following terms.

“In the result, petition is allowed in part, granting compensation of Rs.1,25,500-(Rupees One Lakh Twenty five thousand and five hundred only) with proportionate costs and interest at 7.5% per annum from the date of petition till the of realization against respondents 1, 4 to 6 jointly and severally. The respondents 4 to 6 are directed to deposit the same into the Court, within a month from the date of this order. After such deposit, the petitioner is permitted to withdraw 50% of compensation and the

remaining amount shall be invested in IDBI Bank, Vizianagaram into Fixed deposit for a period of three years. Advocate fee is fixed at Rs.1000/-. Rest of the claim is dismissed.”

6. Aggrieved by it, APSRTC has come up with this appeal.
7. Sri Vinod Kumar Tarlada, learned standing counsel for APSRTC argued that simply because the bus was taken on hire, the insurance company cannot be absolved of its liability and the award impugned is against law thus, required to be interfered with.
8. Respondent No.2 herein/ Smt.K.Suseela was the owner of the offending bus. Learned counsel for appellant argued that dismissing the claim petition as against the owner of the bus is incorrect and the liability should be fastened on her as well as the insurance company. Respondent No.3 in this appeal is United India Insurance Company Limited. On behalf of it, no legal proposition has been canvassed countering the submissions made by the APSRTC in this appeal. Smt. A.Ramanamma was the claimant before the claims tribunal and she is shown as R1 in this appeal. Learned counsel for respondent No.1/claimant, Sri Jayanti S.C.Sekhar, appeared on her behalf and submits that the

questions raised in this appeal may be decided in accordance with the law.

9. The point that falls for consideration is

“Whether the learned claims tribunal committed legal error in fastening liability on APSRTC and in exonerating the liability on part of the insured and insurer of the offending bus?”

POINT: -

10. From the evidence, it is crystal clear that R2 in this appeal is the registered owner of the offending bus and by virtue of Ex.B1, it is crystal clear that it was validly insured and the insurance policy was effective on the date of accident/ 25.11.2005. It is also very clear that under Ex.B2 agreement, she leased out the services of the driver and the bus on hire to APSRTC. At the material point of time, the effective control over the bus was with APSRTC. Thus, the facts are not in dispute. In this regard, the rulings of the Hon'ble Supreme Court of India in ***UPSRTC V. Kulsum*¹** and ***UPSRTC V. Rajenderi Devi*²** are

¹ (2011) 8 SCC 142

² (2020) 19 SCC 230

required to be seen. Their Lordships have dealt with similar case of an insured bus being hired to APSRTC and the relative liability of the parties fell for consideration. Their Lordships held that on leasing of insured bus it would be deemed that the vehicle would be transferred along with the insurance policy to lessee. Therefore, the insurance policy obtained by the original owner would still subsist and the owner and insurance company cannot escape from liability to pay compensation to third party risks. In the case at hand, the injured claimant is a third party to the insurance policy. By virtue of the principle of law laid down by their Lordships, it is crystal clear that insured/R2/Smt.K.Susheela and the insurer/R3/United India Insurance Company Limited should shoulder the responsibility. Fastening liability on APSRTC is incorrect in law and therefore the award of the claims tribunal which held otherwise cannot be maintained. Point is answered accordingly.

11. In the result, this appeal is allowed. Consequently, order dated 25.02.2010 in MVOP.No.90 of 2007 of learned Chairman, Motor Accidents Claims Tribunal – Cum – Additional District And Sessions Court, Vizianagaram fixing liability on the appellants herein/APSRTC is set aside. The liability to pay compensation

amount shall be shouldered by the owner/respondent No.2 herein and the insurance company/ respondent No.3 herein, namely, The United India Insurance Company Limited. Before the claims tribunal, respondent No.3/ The United India Insurance Company Limited shall deposit the compensation amount within 30 days from the date of this order along with proportionate costs and interest as ordered in the award by the claims tribunal. The claimant is entitled to apply to the claims tribunal and withdraw the entire amount. There shall be no order as to costs in this appeal.

As a sequel, miscellaneous applications, pending, if any, shall stand closed.

Dr. V.R.K.KRUPA SAGAR, J

Date: 19.02.2025

Dvs

THE HON'BLE JUSTICE Dr. V.R.K.KRUPA SAGAR

MACMA No. 3001 of 2012

Date: 19.02.2025

Dvs