

(2015) 03 AP CK 0105

In the Andhra Pradesh High Court

Case No : Review M.A.C.M.A.M.P. No. 7510 of 2012 in M.A.C.M.A. No. 746 of 2005

APSRTC

APPELLANT

Vs

B. Nagi Reddy and Others

RESPONDENT

Date of Decision : 11-03-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 47 Rule 47, 114

Citation : (2015) 2 AnWR 294

Hon'ble Judges : A. Shankar Narayana, J.

Bench : Single Bench

Advocate : C. Sunil Kumar Reddy, Advocate, for the Appellant; P. Rama Krishna Reddy, Advocate, for the Respondent

Judgement

A. Shankar Narayana, J.—The Andhra Pradesh State Road Transport Corporation, represented by its Managing Director, which was arrayed as third respondent in MACMA No. 746 of 2005, preferred the instant review application, under Section 114 CPC, though, there are specific provisions under Order XLVII CPC, requesting to review the judgment in the above MACMA, dated 17.09.2010, whereby and whereunder the New India Assurance Company Limited, which was the appellant in the said appeal, was exonerated and so also the owner of the accident vehicle, but maintaining the order and decree of the Tribunal in all other respects, in other words, the entire liability being cast on the review petitioner, which figured as third respondent in the Original Petition No. 2158 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad. The facts, that are necessary for disposal of the instant review application, are that, on 19.08.2001 at about 9.30 a.m., when the first respondent got down from the bus bearing registration No. AP-28U-5951, hired by the third respondent - APSRTC, its driver suddenly moved the bus in a rash and negligent manner and dashed him, due to which, the wheel of the bus ran over his right leg, resulting in fracture and multiple injuries to various parts of his person. He was taken to Gandhi Hospital, Secunderabad, where he suffered

amputation of right leg below the knee. He laid the claim for Rs. 5,00,000/-.

2. On behalf of the first respondent, relevant witnesses were examined and documents were marked. On behalf of the APSRTC, the driver of the bus was examined as RW. 1 and Exs. B1 and B2 were marked. Ex. B2 happens to be an agreement dated 19.03.2001, entered into by the APSRTC and owner of the bus which was hired to the Corporation.

3. The Tribunal, having discussed the evidence on record, determined the compensation at Rs. 3,30,000/- and awarded the same with interest at 6% p.a., fastening liability on respondents 2 and 3 being the Insurance Company and the Corporation respectively.

4. Aggrieved by the same, the aforementioned MACMA was preferred by the Insurance Company. The appeal was disposed of, by judgment dated 17.09.2010, allowing the appeal and exonerating the Insurance Company and owner of the bus hired to the Corporation.

5. Aggrieved of the same, the Corporation made the instant review petition contending in the grounds of review petition thus:

"2. This Hon''ble Court at the time of hearing has not considered the fact that the vehicle involved is hired vehicle of APSRTC and the factor which respondent is to pay the compensation was referred to be decided by the full bench of this Hon''ble Court. Casting the liability on the review petitioner is contrary to law.

3. The judgment in MACMA No. 746 of 2005 dated. 17.09.2010 is contrary to the judgment rendered by the Apex Court in U.P. Road Transport Corporation v. Kulsum."

Therefore, the review petitioner sought to review the judgment, dated 17.09.2010, in MACMA No. 746 of 2005, and to exonerate it from its liability.

6. Heard Sri C. Sunil Kumar Reddy, learned Standing Counsel for the review petitioner - APSRTC, Sri P. Rama Krishna Reddy, learned counsel for the first respondent and Sri Kota Subba Rao, learned counsel for the Insurance Company.

7. For disposal of the instant review petition the date of pronouncement of judgment under review and the date of judgment rendered by the Hon''ble Apex Court in Uttar Pradesh State Road Transport Corporation v. Kulsum (Civil Appeal No. 5901 of 2011 (Arising out of SLP (C) No. 1969 of 2008)), attain great significance in view of explanation to sub-rule (2) of Order XLVII CPC.

8. The judgment sought to be reviewed was pronounced on 17.09.2010. The learned Standing Counsel for the review petitioner placed copies of reported judgments of the Full Bench of this Court in LPA No. 206 of 2000 and batch, MACMA No. 361 of 2006 and batch and WP No. 7262 of 2005 and batch reflecting that the judgment was pronounced on 20.11.2012. The judgment in Uttar Pradesh State Road Transport Corporation v. Kulsum (supra) was pronounced on 25.07.2011.

9. Thus, it is abundantly clear that the judgments on which reliance sought to be placed referring them to in the grounds of review petition, as extracted above, were subsequent to the decision rendered by this Court, which decision is now sought to be reviewed. In the said context it would be apt to refer to explanation to sub-rule (2) of Order XLVII CPC. It reads thus:

"Explanation. - The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment."

10. Thus, it is abundantly clear that the explanation enacts an embargo to prefer a review merely on the ground that the superior Courts rendered decisions reversing or modifying the decision on a question of law which shall not be a ground for review. Further, none of the grounds mentioned in sub-rule (1) of Order XLVII CPC have been invoked by the review petitioner. Thus, viewed from any angle, there is absolutely no merit in the instant review petition, it deserves to be dismissed. Accordingly, the Review MACMAMP is dismissed. There shall be no order as to costs.