

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.09.2018

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Writ Petition No.26411 of 2014

&

M.P.No.1 of 2014

The General Manager,
State Express Transport Corporation
(Tamil Nadu) Ltd.,
Pallavan Salai,
Chennai 600 002 Petitioner

...vs...

1. The Special Deputy Commissioner of Labour,
Teymanmpet, Chennai.
2. S.Sivaperumal ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records in order, dated 18.04.2013, in Approval Petition No.137/2010 on the file of the Special Deputy Commissioner of Labour, Teynampet, Chennai, and to quash the same and to consequently, allow the Approval Petition.

For Petitioner : Mr. R.P.Prathap Singh
For Respondents : Mr. N.Srinivasan, AGP., for R-1,
Mr. M.Gnanasekar, for R-2

ORDER

The dismissal of the Approval Petition No.137 of 2010 on the file of the Special Deputy Commissioner of Labour, Teynampet, Chennai, is under challenge, in this writ petition, by the Management.

2. The allegation against the workman is that on 20.03.2007, around 02.30 pm, he caused an accident, thereby caused the death of one pedestrian. During domestic enquiry, the workman took a defence that the brake of the bus was not in the working condition and despite the previous workman/driver making endorsement in the register, even thereafter the brake was not repaired and he was asked to drive the same vehicle and the accident had happened in such circumstances.

3. With regard to the manner in which the accident took place, the driver has stated that he has taken five hours to cross the distance of 165 Kms, therefore, he could not have been rash and negligent in his driving. Apart from that, only on account of the unexpected and sudden crossing of the pedestrian, along with the bullock, the accident had taken place, according to him.

4. The finding of the Approving Authority is that the finding in the enquiry is based on no evidence and therefore, the finding is perverse.

5. The only question that has to be considered by this Court is, whether the findings are perverse and the rejection of the Approval Petition by the concerned authority is fair and proper.

6. From the evidence that is placed on record, it is needless to point out that even at the earliest point of time, while explaining the manner of accident, the driver has stated that the accident arose only on account of sudden crossing of the pedestrian. The evidence adduced before the Enquiry Officer only goes to show that only because of the negligent attitude shown by the Management in not effecting repair to the vehicle, this accident should have taken place. The other reason could be that only account of the unexpected and sudden crossing of the pedestrian (as spoken to by the driver). Without looking into the availability of the legal evidence, the finding has been rendered by the Enquiry Officer. Therefore, rightly, the Approval Petition has been rejected and therefore, the writ petition challenging the rejection of the Approval Petition has to be dismissed.

7. The learned counsel appearing for the workman would also point out that the charge is also not in accordance with the actual occurrence. The charge states that the workman has caused damage to the yet another vehicle on the road. The charge that the workman caused damage to the another vehicle has no basis at all, as there was no other vehicle on the road, at the time of accident, even as per the admitted case of both sides.

8. In view of the foregoing reasonings, this writ petition has no merits and thus, the writ petition stand dismissed. No costs. Consequently, the connected MP is closed.

srk

Sd/-

Assistant Registrar (CS-II)

// True Copy//

To

1. The Special Deputy Commissioner of Labour,
Teymanmpet, Chennai.

+ 1 cc to Mr.R.P.Prathap Singh, Advocate SR 66117
+ 1 cc to Government Pleader SR 66678

KR/10/10/18

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