

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.3123 OF 2006
AND M.P.NO.1 OF 2006

Tamilnadu State Transport Corporation
(Villupuram) Ltd.,

Villupuram.

Rep. by its Managing Director

Appellant/Respondent

Vs.

M.Andy

... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, against the order of the Deputy Commissioner of Labour - II, Chennai - 6, dated 07.07.2006 in case No.W.C.No.81 of 2006 on the file of the Commissioner for Workmen's Compensation, Chennai, Deputy Commissioner of Labour - II, Chennai.

For Appellant :Ms.Kala Ramesh

J U D G M E N T

Aggrieved over the award of compensation made by the Commissioner of Workmen's Compensation, Deputy Commissioner of Labour - II, Chennai - 6, in W.C.No.81 of 2006, dated 07.07.2006, the Tamil Nadu State Transport Corporation (Villupuram) Ltd., has preferred this Civil Miscellaneous Appeal.

2. According to the appellant, the respondent driver was engaged on casual basis and in violation of the safety instructions, he dashed against a stationed lorry and thereby caused death of a passenger and injuries to several other passengers. In that accident, he also suffered injuries on his right thigh and on the basis of the injuries sustained by him, he has laid a claim petition. Since the accident had taken place due to the rash and negligent act of the driver and in violation of the instructions given to him, the appellant Corporation would contend that they are not liable to pay any compensation.

3. I have perused the materials available before this Court.

4. It is an admitted fact that the respondent was employed as a driver on the date of accident. Even though the accident had taken place due to his rash and negligent driving, the fact remains that he sustained injuries during the course of employment and his disability was assessed at 20%. In support of his claim, the respondent / claimant has filed six documents. Ex.P1 - FIR, the factum of accident stood proved. Exs.P2 and P3 reveals the medical treatment given to him and Ex.P6 is the disability certificate. There is no dispute about the accident and injuries suffered and disability caused due to the injury. P.W.2 Doctor would speak about the disability sustained by the claimant. On the basis of the oral and documentary evidence, the Authority has computed the compensation as Rs.96,797/- by applying appropriate multiplier factor corresponding to the age of the claimant.

5. Since the employment status and the disability are not controverted and there being no discrepancy in the computation also, this Court is of the considered view that the order passed by the Authority does not warrant any interference. The substantial questions of law raised by the appellant Corporation as to whether a Casual Labour is entitled to compensation for an accident caused by him due to his rash and negligent act is concerned, Casual Labour is also an employee falls under the definition of "employee" under the Employees' Compensation Act. The relevant factor for consideration is to find as to whether the accident had not taken place during the course of employment and arising out of the employment. It is well proved that the accident had taken place during the course of employment and arising out of the employment. Therefore, the substantial questions of law raised by the appellant are answered in the negative. The disability assessed by the Authority is corroborated by the evidence of the Doctor P.W.2. There is no contra evidence to show that there is no injury sustained by the claimant / driver. Therefore, the third question of law as to the assessment of the disability by the Authority is also based on evidence and answered in the negative.

6. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

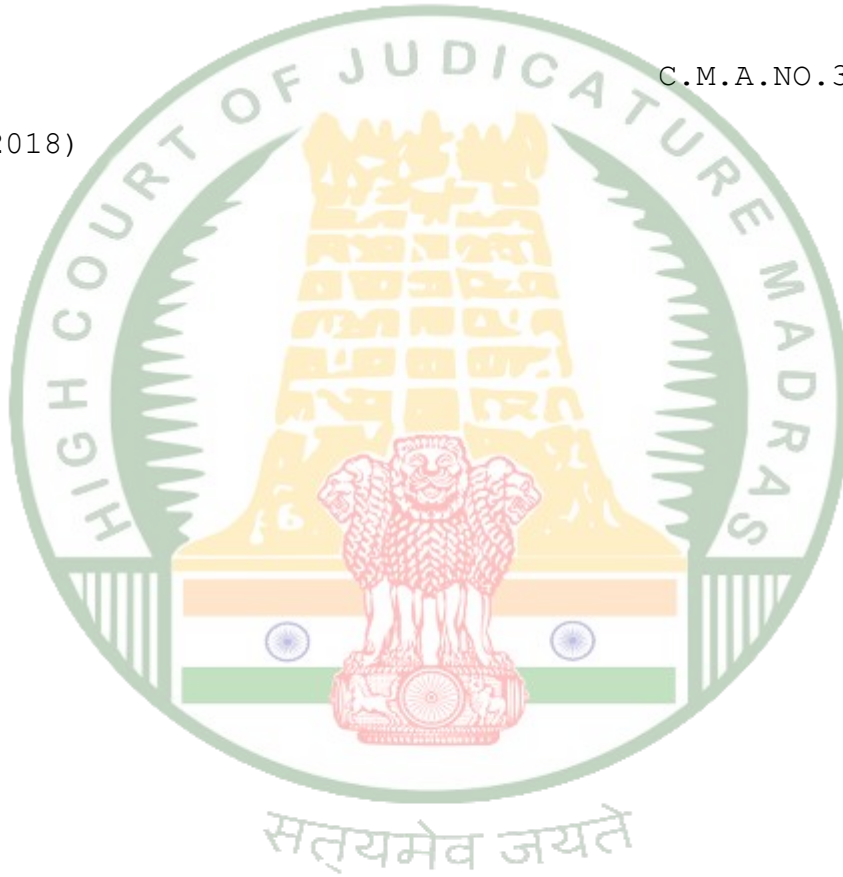
1. The Commissioner for Workmen's Compensation
cum Deputy Commissioner of Labour - II
Chennai - 600 006.

2. The Section officer
VR Section, High Court, Madras 104.(2 copies)

+1 CC to Ms.Kala Ramesh , Advocate sr 19205

C.M.A.NO.3123 OF 2006

SP(30/05/2018)



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