

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1642 of 2009
and
M.P.No.1 of 2009

Tamil Nadu State Transport Corporation Ltd.,
Rep. by its Managing Director,
Villupuram III Ltd., Kancheepuram Region,
Kancheepuram. ... Appellant/Respondent

vs

L.Ganapathy ... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, against the order dated 20.10.2008 made in W.C.No.388 of 2007 on the file of the Deputy Commissioner of Labour - II (Commissioner for Workmen Compensation), Teynampet, Chennai - 6.

For Appellant : Mr.M.Chidambaram

For Respondent : No appearance

J U D G M E N T

Though the notice was served on the respondent, there is no representation for the respondent. Be that as it may, it is noticed that the case pertains to the year of 2007, I am inclined to take up the case for hearing and dispose the same on merits. No prejudice will be caused by this order.

2.The appellant Tamil Nadu State Transport Corporation Limited is aggrieved by the impugned order dated 20.10.2008 passed by the Deputy Commissioner of Labour in W.C.No.388 of 2007.

3.By the impugned order, the Deputy Commissioner of Labour has awarded a sum of Rs.1,95,696/- as compensation to the respondent/claimant who was the temporary driver of the bus bearing registration No. TN 21 N 0617 belonging to the appellant Tamil Nadu State Transport Corporation.

4.In the present Civil Miscellaneous Appeal, the appellant has raised the following questions of law for consideration:-

- i. Whether the claim petition is maintainable?
- ii. Whether the Respondent sent statutory notice prior to file the claim petition?
- iii. Whether the age given by the Respondent has considered by the Court below?
- iv. Whether the claim petition is maintainable since the Respondent has committed loss to the Appellant Corporation?
- v. Whether the Court below considered the F.I.R?

5.In the present Civil Miscellaneous Appeal, the appellant has contested the compensation awarded to the respondent on the ground that the respondent was earning only Rs.75/- per day and batta was Rs.20 - 25. However, the monthly wages of Rs.4,000/- was modified by the Deputy Commissioner of Labour while calculating the compensation to be awarded of Rs.1,95,696/- to the respondent for the injury, is unsustainable.

6.Heard the learned counsel for the appellant Corporation of Tamil Nadu State.

7.In the present Civil Miscellaneous Appeal, the appellant has questioned only the quantum of compensation awarded by the Deputy Commissioner of Labour on the ground that the respondent himself admitted in his evidence he was earning of Rs.75/- per day together with batta of Rs. Rs.20 - 25 and therefore, in the computation of compensation, the monthly wages of Rs.4,000/- as per the G.O.(Ms) cannot be sustained. It was the duty of the appellant corporation to ensure that its employees get minimum wages as in force. Merely because Rs.75 + 20 - 25 was paid as daily wages including batta to the respondent will not absolve the appellant to pay the compensation below statutory minimum wages as per G.O.(2D).No.47, Labour and Employment (J1) Department dated 01.08.2003.

8.I therefore do not find any merits in the present Civil Miscellaneous Appeal. I am therefore not inclined to interfere the impugned order passed by the Deputy Commissioner of Labour. Thus, the questions of law raised by the appellant are answered against the appellant.

9.The present Civil Miscellaneous Appeal is liable to be dismissed and is accordingly dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

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To

1.The Deputy Commissioner of Labour - II,
(Commissioner for Workmen Compensation),
Teynampet, Chennai - 6.

Copy to: The Section Officer,
Vernacular Section, Madras High Court.

+1cc to Mr.M.Chidambaram, Advocate, SR.No.97650.

C.M.A.No.1642 of 2009
and
M.P.No.1 of 2009

CP(CO)
CSR: 02.03.2020