

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.11.2019

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.28305 of 2013

and

M.P.No.1 of 2013

Tamil Nadu State Transport Corporation,
(Coimbatore) Ltd.,
Mettupalayam Road,
Rep. by its Managing Director.

..Petitioner

Vs.

1.S.Vasuki

2.The Commissioner of Workmen's
Compensation (Deputy Commissioner of Labour),
No.85, Sankar Nagar,
Salem - 636 007.

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the ex-parte order dated 21.10.2011 in W.C.No.183 of 2008 and consequential order dated 31.12.2012 in B2/6757/12 on the file of the Commissioner of Workmen's Compensation (Deputy Commissioner of Labour), 85, Sakagar, Salem - 636 007, the 2nd respondent herein and to quash the same as violate of the principles of natural justice and directing the fresh disposal of W.C.No.183 of 2010 after the petitioner evidence and equity.

For Petitioner : Mr.P.Kannan Kumar

For Respondents : Mr.R.M.D.Nasrullah for R1

Mr.J.Ramesh,

Additional Government Pleader,
for R2

ORDER

The exparte order dated 21.10.2011 passed in W.C.No.183 of 2008 and the consequential order dated 31.12.2012, passed in B2/6757/12, are under challenge in the present writ petition.

2.The petitioner is the Tamil Nadu State Transport Corporation, Coimbatore Limit. The learned counsel for the writ

petitioner states that the husband of the first respondent late Shri.Suresh Kumar was employed as a conductor in the petitioner corporation at Sathiyamangalam Branch. Subsequently, the employee died on account of cardiac arrest. The first respondent filed a claim petition before the second respondent under the Workmen's Compensation Act, claiming a sum of Rs.5,00,000/- as compensation. The writ petitioner/Management filed a counter statement stating that continuous duty was not provided to the deceased employee and raised objections regarding the claim of compensation.

3.The grievance of the writ petitioner/Corporation is that the second respondent conducted a Camp Court at Erode. The petitioner/Management was pursuing the petition before the Camp Court at Erode. However, after passing of the award, they came to understand that the award was passed by the second respondent at Salem and therefore, they were not aware of the date of hearing and accordingly, an exparte order was passed. The writ petitioner filed an Interlocutory Application under Section 5 of the Limitation Act to condone the delay of 30 days in filing the petition to set aside the exparte award passed against the petitioner Corporation. The said petition was also rejected and therefore, the petitioner is constrained to file the present writ petition.

4.The learned counsel appearing on behalf of the first respondent states that the first respondent is a widow and the compensation is claimed on account of the sudden demise of her husband. Under these circumstances, the writ petition is liable to be dismissed.

5.This Court is of the considered opinion that the mistake occurred on account of the fact that the officials of the writ petitioner Corporation were pursuing the matter at the Court Camp in Erode. However, the petition was taken at Salem Court and the same was decided by setting the petitioner exparte. The writ petitioner thereafter filed a petition to condone the delay of 30 days in filing the petition to set aside the exparte award passed against the petitioner Corporation and the said petition was also rejected.

6.This Court is of the considered opinion that all the issues are to be decided on merits. In normal circumstances, Courts would not encourage the execution of exparte awards. The awards decided on merits are to be executed and in the event of any exparte order, the matter is to be remanded back. However, if the intention of the parties are otherwise, having allowed the Court to pass an exparte order with an intention to prolong and protract the matter, then the Courts would not interfere, in

all other circumstances, the case are to be remanded back for readjudication.

7.The learned counsel appearing on behalf of the first respondent states that the first respondent is made to appear again before the second respondent and same would cause some inconvenience and financial loss. Thus, this Court is inclined to impose costs for the lapse committed on the part of the petitioner/Management.

8.Under these circumstances, the order dated 21.10.2011 passed in WC.No.183 of 2008 and the consequential order dated 31.12.2012 passed in B2/6757/12 are quashed. The second respondent is directed to restore the petition on file and readjudicate the matter by affording opportunity to all the parties concerned and dispose of the same as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. The respective parties are directed to co-operate for the early disposal of the petition and unnecessary adjournments should not be granted to either of the parties. The writ petitioner/Management is directed to pay a cost of Rs.10,000/- to the learned counsel who is appearing for the first respondent within a period of two weeks from the date of receipt of a copy of this order, failing which, the writ petition stands dismissed automatically. With this condition, the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

tsg

To

1.The Commissioner of Workmen's
Compensation(Deputy Commissioner of Labour),
No.85, Sankar Nagar,
Salem - 636 007.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Coimbatore) Ltd.,
Mettupalayam Road.

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+lcc to Mr.K.V.Shanmuganathan, Advocate sr.96794
+lcc to Mr.P.Kannan Kumar, Advocate sr.96385
+lcc to Government Pleader SR.NO. 96794

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