



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.11715 of 2010

V.Seenivasan (Died)

2.S.Athilaksmi

3.S.Rajkumar

4.S.Venkatesan

5.S.Nandhinidevi

6.V.Rajamani

... Petitioners

vs.

1.The Presiding Officer,
Labour Court, Madurai.

2.The Management of Tamil Nadu
State Transport Corporation (Madurai) Limited,
Madurai Region,
represented by its Managing Director,
Madurai.

... Respondents

(Petitioners 2 to 6 were substituted as LR's of the deceased P1 by order of this Court in M.P.(MD)No.1 of 2014, dated 14.11.2019)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari mandamus, to call for the records from the first respondent, Labour Court, relating to the impugned Award, dated 27.03.2008 in I.D.No.7 of 1997 of the first respondent, insofar as denying back wages and other benefits to the petitioner and to quash the same and consequently, to direct the second respondent to reinstate the petitioner in service with back wages and continuity of service.

For Petitioners : Mr.M.Jegadeesan

For R2 : No Appearance

ORDER

This Writ Petition was originally filed by the Driver of the second respondent Transport Corporation, challenging the award of Labour Court in I.D.No.7 of 1997, dated 27.03.2008. Since the first petitioner died, his legal representatives have been brought on record.

2.The petitioner was appointed as a Driver in the Transport Corporation in 1992 and his service was made permanent with effect from 05.09.1993. While, he was working in Sattur Branch, there was an accident by which, a father and two children, who travelled in TVS -50 moped, were killed and the bus driven by the petitioner ran over the victims. Holding the petitioner responsible for the



accident, the Management dismissed the petitioner from service. However, the petitioner raised an industrial dispute before Labour Court, Madurai. The Labour Court though found that the charge against the petitioner that he was responsible for the accident is not proved, directed reinstatement without back wages.

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3. Going by the facts narrated and the manner in which the accident happened, this Court is of the view that the petitioner was also responsible for the accident as he could have avoided the accident. It is admitted that the bus driven by the petitioner was crossing a bridge at the time of accident. Before the bus, there was a herd of cattle and the TVS-50 Moped was also going just in front of the bus carrying five persons. A husband and wife along with three children were travelling in the moped. While overtaking the small vehicle, the TVS-50 which was moving on the left side of the bus, probably due to sudden loss of balance, fell down and three persons got themselves under the back wheels of the bus.

4. Though the Labour Court found that the petitioner is not responsible for the accident, this Court is of the view that the findings rendered by the Labour Court are not based on any application of mind with regard to the whole incident. Be that as it may, the petitioner was dismissed from service, by order, dated 04.07.1996. The award of the Labour Court was on 27.03.2008. The petitioner, therefore, was not working for more than 12 years. Hence, the Labour Court is justified in refusing to give back wages and hence, this Court finds no reason to interfere with the order of Labour Court denying back wages to the petitioner.

5. As a result, this Writ Petition is dismissed and the Award passed by the Labour Court in I.D.No.07 of 1997, dated 27.03.2008, is hereby confirmed. No costs.

Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar(CS)

Cmr
To

The Presiding Officer,
Labour Court, Madurai.

+1 CC to M/s.M.JEGADEESAN, Advocate (SR-98787[F] dated 15/11/2019)

W.P.(MD)No.11715 of 2010

14.11.2019

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